



# CITY OF MENDOTA

*"Cantaloupe Center Of The World"*

ROBERT SILVA  
Mayor

ROLANDO CASTRO  
Mayor Pro Tem

VICTOR MARTINEZ

JESSE MENDOZA

OSCAR ROSALES

## AGENDA MENDOTA CITY COUNCIL

Regular City Council Meeting  
CITY COUNCIL CHAMBERS

643 QUINCE STREET

May 28, 2019

6:00 PM

CRISTIAN GONZALEZ  
City Manager

JOHN KINSEY  
City Attorney

The Mendota City Council welcomes you to its meetings, which are scheduled for the 2nd and 4th Tuesday of every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda. **Please turn your cell phones on vibrate/off while in the council chambers.**

Any public writings distributed by the City of Mendota to at least a majority of the City Council regarding any item on this regular meeting agenda will be made available at the front counter at City Hall located at 643 Quince Street Mendota, CA 93640, during normal business hours, 8 AM - 5 PM.

In compliance with the Americans with Disabilities Act, those requiring special assistance to participate at this meeting please contact the City Clerk at (559) 655-3291. Notification of at least forty-eight hours prior to the meeting will enable staff to make reasonable arrangements to ensure accessibility to the meeting.

### **CALL TO ORDER**

### **ROLL CALL**

### **FLAG SALUTE**

### **FINALIZE THE AGENDA**

1. Adjustments to Agenda
2. Adoption of final Agenda

### **PRESENTATION**

1. Council to recognize Robert Baeza for his service to the community.

### **WORKSHOP**

1. Finance Officer Diaz to present the selection of design features at the Mendota Community Center for the Statewide Park Development and Community Revitalization Program.

## **CITIZENS ORAL AND WRITTEN PRESENTATIONS**

At this time members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium, state their names and addresses for the record. Please watch the time.

## **APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING**

1. Minutes of the regular City Council meeting of May 14, 2019.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

## **CONSENT CALENDAR**

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. MAY 10, 2019 THROUGH MAY 23, 2019  
WARRANT LIST CHECKS NO. 45335 THRU 45376  
TOTAL FOR COUNCIL APPROVAL = \$364,626.28

## **BUSINESS**

1. Appointment of Mendota residents to the Mendota Recreation and Planning Commissions.
  - a. *Receive report from City Clerk Cabrera-Garcia*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council motion to appoint a resident to the Mendota Planning Commission*
  - e. *Council motion to appoint residents to the Mendota Recreation Commission*
2. Introduction and first reading of **Ordinance No. 19-06**, amending the Mendota Municipal Code to eliminate the ban on cannabis dispensaries and to establish regulations for commercial cannabis businesses.
  - a. *Receive report from City Manager Gonzalez*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council provide any input and waive the first reading of Ordinance No. 19-06, and sets the public hearing for the June 11<sup>th</sup> City Council Meeting*

3. Council discussion and consideration of **Resolution No. 19-35**, a resolution of intention to initiate an amendment to Title 17 of the Mendota Municipal Code to permit commercial cannabis retail businesses within the C-3 zone.
  - a. *Receive report from City Manager Gonzalez*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council consider Resolution No. 19-35 for adoption*
  
4. Council discussion and consideration of the proposed expansion of Rojas-Pierce Park.
  - a. *Receive report from Assistant City Engineer Osborn*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council provide direction to staff on how to proceed*
  
5. Council discussion and consideration to direct the City Manager to terminate the Letter Agreement for Exclusive Right to Negotiate with Greystone Equities, LLC.
  - a. *Receive report from City Attorney Kinsey*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council provide direction to staff on how to proceed*

### **PUBLIC HEARING**

1. Public hearing and second reading of **Ordinance No. 19-05**, amending the Mendota Municipal Code to regulate sidewalk vendors in accordance with SB 946.
  - a. *Receive report from City Manager Gonzalez*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens the public hearing, accepting comments from the public*
  - d. *Mayor closes the public hearing*
  - e. *Council provide any input, waive second reading, and adopt Ordinance No. 19-05*

### **DEPARTMENT REPORTS AND INFORMATIONAL ITEMS**

1. Administrative Services
  - a) Monthly Report

2. City Attorney  
a) Update

3. City Manager

### **MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS**

1. Council Member(s)

2. Mayor

### **CLOSED SESSION**

1. Conference with legal counsel regarding potential initiation of litigation pursuant to Government Code § 54956.9(c)–1

2. CONFERENCE WITH LABOR NEGOTIATORS  
Pursuant to CA Government Code §54957.6  
Agency Designated Representatives: Cristian Gonzalez, City Manager; Jennifer Lekumberry, Director of Administrative Services  
Employee Organization: Mendota Police Officers Association

3. CONFERENCE WITH LABOR NEGOTIATORS  
Pursuant to CA Government Code §54957.6  
Agency Designated Representatives: Cristian Gonzalez, City Manager; Jennifer Lekumberry, Director of Administrative Services  
Employee Organization: American Federation of State, County and Municipal Employees

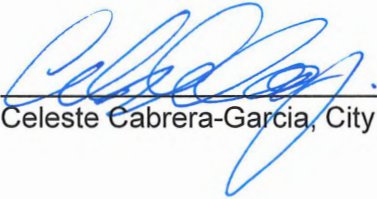
4. REAL PROPERTY NEGOTIATIONS  
Pursuant to CA Government Code § 54956.8  
a) Address: 643 Quince Street, Mendota, CA 93640  
b) Negotiator: Cristian Gonzalez, City Manager  
c) Negotiating Party: United Security Bank  
d) Under Negotiation: Lease of Property

5. REAL PROPERTY NEGOTIATIONS  
Pursuant to CA Government Code § 54956.8  
a) Address: 655 Quince Street, Mendota, CA 93640  
b) Negotiator: Cristian Gonzalez, City Manager  
c) Negotiating Parties: Employment Development Department & Workforce Connection  
d) Under Negotiation: Lease of Property

**ADJOURNMENT**

**CERTIFICATION OF POSTING**

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota City Council Regular Meeting of May 28, 2019, was posted on the outside bulletin board located at City Hall, 643 Quince Street Friday, May 28, 2019 at 5:30 p.m.

  
\_\_\_\_\_  
Celeste Cabrera-Garcia, City Clerk



## MINUTES OF MENDOTA REGULAR CITY COUNCIL MEETING

---

**Regular Meeting**

**May 14, 2019**

**Meeting called to order by Mayor Silva at 6:00 p.m.**

### **Roll Call**

**Council Members Present:** Mayor Robert Silva, Mayor Pro Tem Rolando Castro, Councilors Victor Martinez, Jesse Mendoza and Oscar Rosales

**Council Members Absent:** None

**Flag salute led by Councilor Martinez**

### **FINALIZE THE AGENDA**

1. Adjustments to Agenda.
2. Adoption of final Agenda.

City Manager Gonzalez requested that Closed Session item #1 be postponed to a future meeting.

A motion was made by Councilor Mendoza to adopt the agenda as requested by staff, seconded by Councilor Rosales; unanimously approved (5 ayes).

### **SWEARING IN**

1. City Clerk Cabrera-Garcia to swear in Sergeant Ramiro Rodriguez, Officer Beatrice Pereda, and Officer Gerardo Vaca.

Chief of Police Andreotti stated that Officer Pereda was unable to attend the meeting.

City Clerk Cabrera-Garcia swore in Sergeant Rodriguez and Officer Vaca.

Chief Andreotti shared the background of the officers.

The Council congratulated the officers and wished them well.

### **CITIZENS ORAL AND WRITTEN PRESENTATIONS**

**Lagina Guzman (Family Dollar)** – provided an update on the remodeling of the Family Dollar store; and invited the Council and staff to the re-grand opening event that will be held on Saturday, May 18<sup>th</sup>.

**Kevin Romero (160 Tuft Street)** – provided an update on Mendota High School sports.

### **APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING**

1. Minutes of the regular City Council meeting of April 23, 2019.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

A motion was made by Mayor Pro Tem Castro to approve items 1 and 2, seconded by Councilor Martinez; unanimously approved (5 ayes).

### **CONSENT CALENDAR**

1. APRIL 22, 2019 THROUGH MAY 08, 2019  
WARRANT LIST CHECKS NO. 45252 THRU 45334  
TOTAL FOR COUNCIL APPROVAL = \$346,895.89
2. Proposed adoption of **Resolution No. 19-30**, approving the application for statewide Development and Community Revitalization Program grant funds for the Mendota Pool Park.
3. Proposed adoption of **Resolution No. 19-31**, approving the application for statewide Development and Community Revitalization Program grant funds for the Mendota Community Center.
4. Proposed adoption of **Resolution No. 19-32**, accepting the engineer's report in support of the formation of an assessment district for the La Colonia subdivision, declaring its intention to form an assessment district, and scheduling a public hearing for consideration of same.
5. Proposed adoption of **Resolution No. 19-33**, conditionally approving an exclusive use permit for the Mendota Community Corporation to hold the 2019 Mendota Fireworks Show.



6. Proposed ratification of a letter of authorization for the CalRecycle Household Hazardous Waste Grant Program, 33<sup>rd</sup> Cycle (HD33).

Discussion was held on warrant 45306, including the status of the Lozano Lift Station project; upcoming capital improvement projects for the City; and the possibility of staff providing the Council with a tour of City facilities.

A motion was made by Mayor Pro Tem Castro to adopt items 1 through 6 of the Consent Calendar, seconded by Councilor Martinez; unanimously approved (5 ayes).

## **BUSINESS**

1. Council discussion and consideration of **Resolution No. 19-29**, approving a licensing agreement with Gonzalez Hall & Promotions, Inc. and authorizing the City Manager to execute same.

Mayor Silva introduced the item and City Manager Gonzalez summarized the report including the Request for Proposals that was issued for the lease of a City-owned property on Naples Street; the proposal that was submitted by Gonzalez Hall & Promotions, Inc.; the provisions of the proposed license agreement; Council previously directing staff to further negotiate with Mr. Gonzalez regarding the provisions of the agreement; and Mr. Gonzalez's response to the possibility of including a cost escalator.

Discussion was held on how the cost escalator would be determined.

**Ramon Gonzalez (Gonzalez Hall & Promotions, Inc.)** - stated that he would like to lease the property to provide additional parking for individuals who utilize the Hall; the issues surrounding parking near the area; and the total costs of the proposed improvements to the property.

Discussion was held on the amount of individuals that utilize the Hall and park their vehicles in the area; the proposed improvements to the property in question; the provisions of the license agreement; and the risk associated with licensing the property.

A motion was made by Councilor Rosales to adopt Resolution No. 19-29, seconded by Councilor Mendoza; unanimously approved (5 ayes).

2. Council discussion and consideration of **Resolution No. 19-34**, approving the reinstatement of the Finance Officer position.

Mayor Silva introduced the item and City Manager Gonzalez summarized the report including the Council's previous consideration of the item; the termination of the contract with the previous grant writer; the change in dynamics of the management team; reclassifying the Administrative Supervisor's position; additional research that staff has done regarding the amount of funds expended to previous grant consultants; and the costs associated with contracting with a grant consultant on a grant-by-grant basis.



Discussion was held on providing promotional opportunities to staff members; providing additional opportunities for all City staff members; and whether there is a probationary period for the Finance Officer position.

A motion was made by Councilor Martinez to adopt Resolution No. 19-34, seconded by Councilor Rosales; approved (4 ayes, no: Castro).

3. Introduction and first reading of **Ordinance No. 19-05**, amending the Mendota Municipal Code to regulate sidewalk vendors in accordance with SB 946.

Mayor Silva introduced the item and City Manager Gonzalez deferred to Assistant City Attorney Cardella who summarized the report including the provisions of SB 946; current Mendota Municipal Code regulations regarding itinerant vendors; and the provisions of the proposed ordinance.

Discussion was held on the code enforcement provisions for the ordinance; the requirements that vendors need to meet in order to sell; the various City fees that the vendors will need to pay; and sidewalk vendors not being classified as home occupation vendors.

A motion was made by Councilor Rosales to conduct the first reading of Ordinance No. 19-05 and set the public hearing for May 28<sup>th</sup>, seconded by Councilor Mendoza; unanimously approved (5 ayes).

Council directed staff to look into the vendor fees that other Cities are imposing for sidewalk vendors.

### **PUBLIC HEARING**

1. Public hearing and second reading of **Ordinance No. 19-04**, approving a second amendment to the Development Agreement by and between the City of Mendota and KSA Homes, Inc. relating to the development of the property commonly known as the La Colonia property.

Mayor Silva introduced the item and City Manager Gonzalez summarized the report including that the proposed amendment to the development agreement with KSA Homes, Inc. relates to the development of a roundabout at the intersection of Bass Avenue and Barboza Street.

Assistant City Engineer Osborn provided additional information about the La Colonia development.

At 7:12 p.m. Mayor Silva opened the hearing to the public and, seeing no one present willing to comment, closed it in that same minute.

A motion was made by Councilor Rosales to adopt Ordinance No. 19-04, seconded by Councilor Martinez; unanimously approved (5 ayes).

## **DEPARTMENT REPORTS AND INFORMATIONAL ITEMS**

1. Animal Control, Code Enforcement, and Police Department
  - a) Monthly Report

Chief of Police Andreotti summarized the monthly log for the Animal Control department; and commented on the ongoing duties for the animal control officers.

Discussion was held on the locations of roosters throughout the City.

Chief Andreotti summarized the monthly log for the Code Enforcement department including weed abatement issues; illegal housing; and provided a personnel update.

Chief Andreotti summarized the Police Department report including a personnel update; and a recent homicide.

Discussion was held on significant cases; holding events on behalf of the Mendota Community Corporation; and whether the police department conducts drug busts.

2. City Attorney
  - a) Update

Assistant City Attorney Cardella stated that he has been working on an ordinance regarding cannabis business activities.

3. City Manager

City Manager Gonzalez deferred to answer questions in lieu of providing a report.

Councilor Martinez inquired on the status of the Black Street reconstruction project; and the status of Rojas-Pierce Park expansion project.

Assistant City Engineer Osborn provided an update on various projects.

## **MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS**

1. Council Member(s)

Councilor Mendoza thanked the audience for their attendance; encouraged individuals to donate for the 2019 Fireworks Show; and congratulated the staff member who will be promoted to the recently approved Finance Officer position.

Councilor Rosales thanked the staff, Council, and the audience for their attendance.

2. Mayor

Mayor Silva reported on a meeting he attended with Wells Fargo bank; and a meeting with the United Security Bank.

**CLOSED SESSION**

1. *Conference with legal counsel regarding potential initiation of litigation pursuant to Government Code § 54956.9(c)–1*  
*[Removed from the agenda]*
2. Conference regarding real property negotiations pursuant to Government Code § 54956.8.
  - a) Addresses:
    - a. 195 Smoot Street, Mendota, CA 93640
    - b. 415 Sorensen Avenue, Mendota, CA 93640
    - c. 437 Sorensen Avenue, Mendota, CA 93640
  - b) Negotiator: Cristian Gonzalez
  - c) Negotiating Party: Mendota Unified School District
  - d) Under Negotiation: Terms of payment

At 7:36 p.m. the Council moved into closed session.

At 7:51 p.m. the Council reconvened in open session and Assistant City Attorney Cardella stated that in regards to item 1 of the closed session, Council consensus was reached to authorize the transaction between the City and the Mendota Unified School District.

**ADJOURNMENT**

With no more business to be brought before the Council, a motion for adjournment was made at 7:51 p.m. by Councilor Mendoza, seconded by Councilor Rosales; unanimously approved (5 ayes).

---

Robert Silva, Mayor

ATTEST:

---

Celeste Cabrera-Garcia, City Clerk

CITY OF MENDOTA  
CASH DISBURSEMENTS  
5/10/2019 - 5/23/2019  
Check# 45335 - 45376

Date	Check #	Amount	Vendor	Department	Description
May 10, 2019	45335	\$1,296.62	COMCAST	GENERAL-WATER-SEWER	CITYWIDE XFINITY SERVICES 5/6/19 - 6/5/19
May 10, 2019	45336	\$3,774.50	BANKCARD CENTER	GENERAL	CREDIT CARD EXPENSES 3/27/19 - 4/17/19
May 14, 2019	45337	\$99,012.00	WESTAMERICA	GENERAL	PAYROLL TRANSFER 4/29/19 - 5/12/19
May 23, 2019	45338	\$615.00	ADMINISTRATIVE SOLUTIONS INC	GENERAL	(7) HRA ADMINISTRATION FEES MAY 2019 (PD) & (17) MONTHLY MEDICAL ADMINISTRATION FEES - MAY 2019
May 23, 2019	45339	\$54.13	ADT SECURITY SERVICES	GENERAL	SECURITY SERVICES 6/3/19 - 7/2/19 COMMUNITY CENTER
May 23, 2019	45340	\$1,204.38	AFLAC	GENERAL	AFLAC INSURANCE FOR MAY 2019
May 23, 2019	45341	\$457.01	ALERT-O-LITE	STREETS	(.5 HR) CONCRETE SAW REPAIR MECH, (2) WARNING MAT YELLOW 36X48 FOR HANDICAP RMP - SORENSEN STREET
May 23, 2019	45342	\$740.00	BC LABORATORIES INC	WATER	(4) THMS & HALOACETIC ACID ANALYSIS
May 23, 2019	45343	\$23,454.14	BLUE SHIELD OF CALIFORNIA	GENERAL	MEDICAL INSURANCE FOR JUNE 2019
May 23, 2019	45344	\$851.25	BSK ASSOCIATES	WATER-SEWER	(1) GENERAL EDT WEEKLY TREATMENT & DISTRIBUTION, (2) MONTHLY WASTEWATER WW MONTHLY (WEEK 2-5)
May 23, 2019	45345	\$350.00	COMMUNITY MEDICAL CENTER	GENERAL	APRIL 2019 LEGAL BLOOD DRAWS (PD)
May 23, 2019	45346	\$645.52	CORBIN WILLITS SYS INC	GENERAL-WATER-SEWER	ENHANCEMENT & SERVICES MAINTENANCE FEES FOR JUNE 2019
May 23, 2019	45347	\$337.19	CROWN SERVICES CO.	GENERAL-SEWER	(5) TOILET 1XWK W/SINK RENTAL - POLICE DEPARTMENT, WASTEWATER PLANT, POOL PARK, & LINDGREN PARK
May 23, 2019	45348	\$350.92	CROWN SHORTLAND CONCRETE	STREETS	(2) YD CONCRETE B6 SACK MIX RIGHT-OF-WAY 890 LOLITA STREET,
May 23, 2019	45349	\$153.00	DEPARTMENT OF JUSTICE	GENERAL	(2) FINGERPRINT APPS PEACE OFFICER BILLED (PD), (2) BLOOD ALCOHOL ANALYSIS APRIL 2019 (PD)
May 23, 2019	45350	\$7,368.20	STANTEC CONSULTING SERVICES	SEWER	2019 - 1ST QTR GROUNDWATER MONITORING REPORT
May 23, 2019	45351	\$134.97	EINERSON'S PREPRESS	GENERAL	(5) 100 CT BUSINESS CARDS FOR PLANNING COMMISSIONERS
May 23, 2019	45352	\$11,250.00	FIREBAUGH POLICE	GENERAL	POLICE DISPATCH SERVICES FOR APRIL 2019
May 23, 2019	45353	\$140.60	FRESNO COUNTY SHERIFF	GENERAL	RMS JMS ACCESS FEE FOR APRIL 2019 (PD)
May 23, 2019	45354	\$300.00	GONZALEZ TRANSPORT INC	STREETS	(2.5 HR) FREIGHT CHARGE FOR BASEROCK PICK-UP & DELIVERY
May 23, 2019	45355	\$50.00	JORGE GUZMAN	GENERAL	KEY DEPOSIT REIMBURSEMENT FOR COMMUNITY CENTER ALCOHOLICS ANONYMOUS EVENT
May 23, 2019	45356	\$2,733.80	HARDWARE DISTRIBUTION	STREETS	(12) 6' YELLOW PLASTIC SPEED BUMP MCCABE STREET/ PEACH AVE
May 23, 2019	45357	\$300.00	KNPZ INSURANCE SERVICES	GENERAL-WATER-SEWER	RENEWAL 401(K) PROFIT INSURANCE 6/26/19 - 6/25/22
May 23, 2019	45358	\$617.51	MENDOTA SMOG & REPAIR	GENERAL-WATER-SEWER	CITYWIDE WIDE VEHICLE MAINTENANCE - (2) OIL CHANGE, (1) SMOG INSPECTION, (1) R&R HEATER HOSE FITTING, (1) WINDOW REGULATOR
May 23, 2019	45359	\$1,223.14	METRO UNIFORM	GENERAL	(1) RAZOR BODY ARMOR - ARMOR EXPRESS, (2) STINGER DS LED (1) STINGER LED, (1) WOOL CAP (PD)
May 23, 2019	45360	\$54,142.15	MID VALLEY DISPOSAL INC	REFUSE	SANITATION CONTRACT SERVICES FOR MAY 2019

CITY OF MENDOTA  
 CASH DISBURSEMENTS  
 5/10/2019 - 5/23/2019  
 Check# 45335 - 45376

May 23, 2019	45361	\$935.85	NORTHSTAR CHEMICAL	WATER	(450 GAL) SODIUM HYPOCHLORITE - 12.5% MILL A
May 23, 2019	45362	\$29,046.07	PG&E	GENERAL-WATER-SEWER-STREETS	WATER DEPARTMENT UTILITIES 4/16/19 - 5/14/19
May 23, 2019	45363	\$108,076.47	PROVOST & PRITCHARD	GENERAL-WATER-SEWER-STORM DRAIN- RECREATION	PASSTHRU - AMOR PROJECT PASS THRU, APRIL 2019 PROFESSIONAL SERVICES, MOWRY BRIDGE, LANDSCAPE & LIGHTING, ROJAS PARK
May 23, 2019	45364	\$1,983.98	PURCHASE POWER	GENERAL-WATER-SEWER	POSTAGE METER REFILL 5/10/19 & 5/12/19
May 23, 2019	45365	\$2,750.43	R&B COMPANY	GENERAL	(20) PVC PIPE (2) ROMAC RANGE (1) STARGRIP RESTRAINT (1) TEE (1) 8X4 FLG TEE (1) FASTNERS (1) 4 FLG TYPE RING GASKET (1) VALVE CONCRETE
May 23, 2019	45366	\$445.22	RAMON'S TIRE	GENERAL-STREETS	VEH#M80 - (1) TIRE REPAIR (INSIDE PATCH) (PD), STREET SWEEPER (1) ROADMASTER STEER (14 PLY) TIRE
May 23, 2019	45367	\$570.50	ERNEST PACKING SOLUTIONS	GENERAL-WATER-SEWER	JANITORIAL SUPPLIES - (1) DEGRESER (4) PAPER TOWELS (2) CAN LINER
May 23, 2019	45368	\$101.00	SAN JOAQUIN RIVER GROUNDWATER	WATER	GROUNDWATER SUSTAINABILITY PLAN - APRIL 2019 SERVICES
May 23, 2019	45369	\$367.12	SIGNMAX	STREETS	(16) SQUARE POST 30 IN ANCHOR FOR BUMP SIGN
May 23, 2019	45370	\$326.72	UNION PACIFIC RAILROAD COMPANY	STREETS	PUBLIC ROADWAY ENCROACHMENT FOR JUNE 2019
May 23, 2019	45371	\$834.12	TRIANGLE ROCK PRODUCTS	STREETS	(7.14) ST 1/2IN HMA TYPE A - ASPHALT STAMOULES & 8TH STREET, (5.11) ST 3/8 CM SC3000 ASPHALT FOR STREET PATCHING
May 23, 2019	45372	\$95.64	UNIFIRST CORPORATION	GENERAL-WATER-SEWER	JANITORIAL SERVICES - (6) RUGS (1) WET & DRY MOP (100) TERRY CLOTHS
May 23, 2019	45373	\$3,812.60	USA BLUEBOOK	WATER-SEWER	(1) TESTER STORAGE CAP, (4) DEWALT 108 PIECE, 10 PIECE 1/2" DRIVE, WRENCH SET & TOOLS ETC, (4) PIPE MARKER FILTER, PIPE MARKER RAW
May 23, 2019	45374	\$599.85	VALLEY PETROLEUM & LIFT INC.	GENERAL-WATER-SEWER	GAS PUMPS - SERVICES REQUEST: VAPOR POPPET REPLACE & RESTORE FUNCTIONS
May 23, 2019	45375	\$1,049.18	VERIZON WIRELESS	GENERAL-WATER-SEWER	CITYWIDE CELL PHONE SERVICES 4/7/19 - 5/6/19
May 23, 2019	45376	\$2,075.50	VULCAN MATERIALS COMPANY	STREETS	(25.86) 1/2 HMA COMMERCIAL ASPHALT LOZANO STREET & BLANCO STREET PATCHING, (6.01) 1/2 HMA COMMERCIAL ASPHALT FOR 2ND STREET PATCH
		\$364,626.28			

---

---

**AGENDA ITEM – STAFF REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILORS  
**FROM:** CELESTE CABRERA-GARCIA, CITY CLERK  
**VIA:** CRISTIAN GONZALEZ, CITY MANAGER  
**SUBJECT:** APPOINTMENTS TO MENDOTA PLANNING AND RECREATION COMMISSIONS  
**DATE:** MAY 28, 2019

---

**ISSUE**

Shall the City Council appoint Mendota residents to the Mendota Planning and Recreation Commissions?

**BACKGROUND**

Currently, the Planning Commission has a vacancy for the Alternate Planning Commissioner position, and the Recreation Commission has two vacancies for two regular Recreation Commissioners positions. On March 6, 2019, an initial notice was published announcing the vacancies, but no applications were received by the posted deadline. As a result, staff published a new notice on April 16, 2019 and applications were received by the deadline of May 8, 2019.

Messrs. Kevin Romero and Josue Urias submitted applications for membership on the Recreation Commission. Mr. Kevin Romero also submitted an application for membership on the Planning Commission as the alternate. All three applications are attached to this report.

**ANALYSIS**

In regards to the position of Alternate Planning Commissioner, the alternate will act as a member of the Planning Commission, as he or she may participate and discuss an item at a meeting, as well as be called upon at any time to sit as a voting member of the Commission for all or part of any meeting. This includes the possibility of such cases as him or her sitting to vote on only one item at a meeting due to the absence or recusal of a regular Planning Commissioner.

Contrary to the procedure for regular members of the Planning Commission, which are appointed by the Mayor and approved by the Council, the alternate is appointed by the Council as a body (MMC 2.36.020(B)).

In regards to the positions on the Recreation Commission, the appointees will serve as regular commissioners, whose terms will expire on January 31, 2023.

Pursuant to section 2.32.010 of the Mendota Municipal Code, Recreation Commissioners are appointed by the Council as a body.

**FISCAL IMPACT**

None.

**RECOMMENDATION**

Council consider appointing a Mendota resident to serve as an alternate member of the Planning Commission, and consider appointing two residents to serve as regular members of the Recreation Commission.





CITY OF MENDOTA  
643 QUINCE STREET  
MENDOTA, CA 93640  
(559) 655-3291



APPLICATION FOR MEMBERSHIP ON A CITY OF MENDOTA  
BOARD, COMMISSION OR COMMITTEE

Name of Board or Committee: Planning  
~~Recommendation~~ Commission

Applicants' name: Kevin Arias-Romero

Address: 160 TUFFT ST. MENDOTA, CA

Telephone number: (559) 382-4701

Present occupation: Crew member, McDonalds

Number of years as a Mendota resident: 23

Memberships:

Are you a member of any other community boards, commissions or committees?  Yes  No.

If yes please provide list: ~~Mendota Humane Society~~

At the initial formation of the committee you have the option of a 2 year or 4 year term, please select which you would like to serve. 2 years  4 years   
(Not Applicable for the Planning Commission. Commissioners serve 4 year terms).

Education:

Please state the highest year of school completed Mendota HS, Class of 2013.

Please state any special areas of study, work experience or special area of interest that may be of value to this committee:

I have the social skills and the drive to help make Mendota the best it can be to be able to help it reach it's full potential

Please give a brief statement of your views related to the business of this committee and why you would like to be a member.

---

---

---

---

---

---

---

---

---

---

Signature of Applicant: Kevin Romero Date: 4/1/19

Accepted:

Signature of City Clerk: Celeste Cabrera Time: 3:30pm  
Date: 4-4-19



CITY OF MENDOTA  
643 QUINCE STREET  
MENDOTA, CA 93640  
(559) 655-3291



APPLICATION FOR MEMBERSHIP ON A CITY OF MENDOTA  
BOARD, COMMISSION OR COMMITTEE

Name of Board or Committee: Recreation Commission

Applicants' name: Kevin Arias-Romero

Address: 160 TUFT ST Mendota, CA

Telephone number: (559) 382-4701

Present occupation: Student/crew member

Number of years as a Mendota resident: 23

Memberships:

Are you a member of any other community boards, commissions or committees? \_\_\_\_\_ Yes  No.

If yes please provide list: \_\_\_\_\_  
\_\_\_\_\_

At the initial formation of the committee you have the option of a 2 year or 4 year term, please select which you would like to serve. 2 years \_\_\_\_\_ 4years   
(Not Applicable for the Planning Commission. Commissioners serve 4 year terms).

Education:

Please state the highest year of school completed Sophomore VC WHCC, NCC Firebaugh

Please state any special areas of study, work experience or special area of interest that may be of value to this committee:

MY HISTORY WITH MYR: Westside Youth has given me  
EXPERIENCE TO GIVE ASSISTANTS ON BRINGING RECREATION  
OPPORTUNITIES

Please give a brief statement of your views related to the business of this committee and why you would like to be a member.

as a former member I learned so much about how much work it takes and the process for any recreational use of facilities and to e-Track start or to search for opportunities for BOTH youth and adults

Signature of Applicant: Kevin Arias-Romero Date: 5/6/19

Accepted:

Signature of City Clerk: Celeste Cabreza-Garza Time: 4:58pm

Date: 5/7/2019





CITY OF MENDOTA  
643 QUINCE STREET  
MENDOTA, CA 93640  
(559) 655-3291



APPLICATION FOR MEMBERSHIP ON A CITY OF MENDOTA  
BOARD, COMMISSION OR COMMITTEE

Name of Board or Committee: Recreation Committee

Applicants' name: Josue urias

Address: 1548 10th St

Telephone number: 559-283-5680

Present occupation: Manager at Restaurant

Number of years as a Mendota resident: 12 years

Memberships:

Are you a member of any other community boards, commissions or committees?  Yes  No.

If yes please provide list: \_\_\_\_\_

At the initial formation of the committee you have the option of a 2 year or 4 year term, please select which you would like to serve. 2 years \_\_\_\_\_ 4years \_\_\_\_\_  
(Not Applicable for the Planning Commission. Commissioners serve 4 year terms).

Education:

Please state the highest year of school completed Highschool.

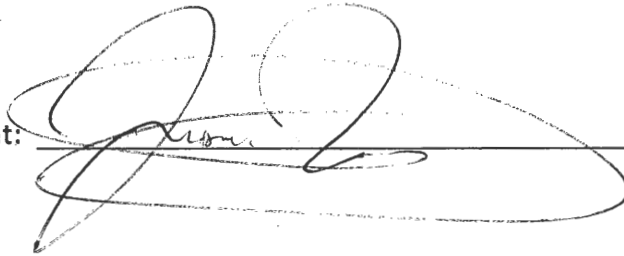
Please state any special areas of study, work experience or special area of interest that may be of value to this committee:

I grew up and went to school in Mendota. My Family has had ~~the~~ their business here in Mendota for over a decade. I just began my first business earlier this year here in Mendota. All of this has made us love Mendota and what it stands for and we would love and be honored to be apart of its continuous success. I hope this could be of value to this committee.

Please give a brief statement of your views related to the business of this committee and why you would like to be a member.

I believe this committee is very important to our city and to our youth. It has become very important to me because of my newly born son. I would love for him and for all of Mendota's youth to have the best parks in the central valley. I would like to be apart of this committee to help and be apart of the enhanement to mendotas parks & recreation.

Signature of Applicant:



Date:

04/03/19

Accepted:

Signature of City Clerk:

Celeste Cabrera

Time:

1pm

Date:

4/03/19

---

---

**AGENDA ITEM**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** CRISTIAN GONZALEZ, CITY MANAGER

**SUBJECT:** PROPOSED AMENDMENTS TO THE MENDOTA MUNICIPAL CODE  
REGARDING COMMERCIAL CANNABIS BUSINESSES

**DATE:** MAY 28, 2019

---

**BACKGROUND:**

Title 8, Chapter 8.36 of the Mendota Municipal Code (MMC) sets forth the City's existing cannabis regulations. It establishes regulations for personal use and cultivation and prohibits dispensaries within the City.

Last year, the City amended Title 17 of the MMC by adding Chapter 17.99, which created a commercial cannabis overlay district and permitted indoor cannabis cultivation, cannabis manufacturing, cannabis testing, and cannabis distribution within the overlay district, subject to a conditional use permit (CUP). The amendments expressly prohibited outdoor cannabis cultivation and cannabis dispensaries.

On January 16, 2019 the Office of Administrative Law officially approved state regulations developed by the Bureau of Cannabis Control (Bureau) for cannabis business across the supply chain (Regulations). Among other things, the Regulations, at 16 C.C.R. § 5416(d) state that "a [cannabis] delivery employee may deliver to *any jurisdiction* within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division." Previously, state law had permitted local jurisdictions to prohibit deliveries within its jurisdiction.

As a result of this change, the City's ban on dispensaries, which includes cannabis delivery businesses, no longer achieves its intended public health and safety benefits in that it will not prevent delivery businesses located in other jurisdictions from consummating cannabis deliveries in the City. Consequently, in light of the potential tax revenue associated with potential deliveries to consumers located in the City, and the fact state law preempts the City's ability to prohibit deliveries to consumers in the City, the City now desires to permit a limited number of cannabis dispensaries and to impose appropriate regulations on their establishment and operation.



## **DISCUSSION:**

The proposed amendments make the following changes to the MMC:

- Amends Chapter 8.36 to regulate personal cannabis use and cultivation only, and to eliminate the ban on dispensaries. The amendments to Chapter 8.36 also replace all references to “marijuana” with the word “cannabis”
- Adds Chapter 8.37 to establish regulations for the establishment and operation of commercial cannabis businesses, including:
  - Permits commercial cannabis operations only if the business (1) has applied for and entered into a development agreement with the City, (2) has a valid commercial cannabis business permit from the City, (3) has a valid state license for the cannabis activity, (4) has a valid CUP, (5) is in compliance with all applicable state and local laws, and (6) has a Cannabis Business License Tax certificate
  - Establishes a procedure for potential cannabis business to apply for a development agreement for commercial cannabis operations
    - Requires the applicant to submit a detailed proposal to the City setting forth its intended operations and how those operations will comply with the MMC
    - Requires that development agreements include a provision requiring payment of a public safety impact mitigation fee
    - Establishes that businesses operating pursuant to a development agreement shall be subject to any applicable taxes approved by the voters
    - Requires that applications be blind scored by an independent five-member committee
  - Establishes detailed location, design, operation, and security requirements for commercial cannabis businesses generally, and for specific types of business, and permits the City Manager to develop additional regulations
  - Limits the number of cannabis retail businesses (i.e., dispensaries) to one for every 15,000 residents in the City
  - Requires commercial cannabis businesses to develop a community relations plan that will address, among other things, public outreach and education related to risks of cannabis use
  - Requires commercial cannabis businesses to maintain financial and compliance records, and permits the City to inspect such records upon request

- Requires, as a condition of operation, that all commercial cannabis business pay all fees, charges, and/or taxes
- Requires commercial cannabis businesses to execute an indemnification agreement with the City that (1) indemnifies the City for claims arising from its authorization of the businesses, (2) requires the businesses to maintain insurance, and (3) requires the business to reimburse the City for all costs and expenses incurred as a result of any legal challenge related to the City’s approval of the commercial cannabis business permit
- Declares that violations of the Chapter are deemed public nuisances, and establishes penalties for violations

Notably, the Ordinance does not contain operating requirements for cannabis manufacturing businesses, which will be established at a later date.

Additionally, the Ordinance contemplates changes to the City’s zoning ordinance. Specifically, the Ordinance contemplates amending the permitted uses of the C-3 zone to make cannabis retail businesses a permitted use subject to a CUP. Accordingly, staff is also requesting adoption of a resolution of intention in accordance with Title 17, Chapter 17.08.040 to initiate the process for amending the zoning code as specified.

**FISCAL IMPACT:**

The City will likely incur additional costs to the extent these amendments prompt additional regulatory oversight. However, any increased costs will largely be offset by increased revenue from cost recovery requirements, permit fees, business license fees, and development agreement provisions.

**RECOMMENDATION:**

Staff recommends that that City Council move to introduce the Ordinance No. 19-06 and give first reading, by title only, with second reading waived.

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA AMENDING  
THE MENDOTA MUNICIPAL CODE TO  
ELIMINATE THE BAN ON CANNABIS  
DISPENSARIES AND TO ESTABLISH  
REGULATIONS FOR COMMERCIAL  
CANNABIS BUSINESSES**

**ORDINANCE NO. 19-06**

**WHEREAS**, pursuant to the authority granted the City of Mendota (City) by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public health, the public morals, or public safety;

**WHEREAS**, comprehensive zoning regulations and regulations upon the use of land and property lie within the City’s police power;

**WHEREAS**, in 1996, the voters of the State of California adopted the Compassionate Use Act of 1996 (CUA), the intent being to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances;

**WHEREAS**, in 2003, Senate Bill 420, titled the “Medical Marijuana Program Act” (MMPA), was enacted to clarify the scope of the CUA and to promulgate rules by which counties and cities can adopt and enforce regulations consistent with its provisions;

**WHEREAS**, in 2011, Assembly Bill 2650 was enacted, affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical cannabis cooperative, collective, dispensary, operator, establishment, or provider;

**WHEREAS**, in late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243, and SB 643, collectively called the Medical Marijuana Regulation and Safety Act (MMRSA), which provides a statewide program for the licensing and regulation of commercial medical cannabis activity, specifically, the operation of medical cannabis dispensaries and the delivery and cultivation of medical cannabis;

**WHEREAS**, in November 2016, the voters of the State of California adopted the Adult Use of Marijuana Act (AUMA), the intent being to establish a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of cannabis;

**WHEREAS**, in June of 2017, the Governor approved the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which established a uniform licensing regime for both medical and adult-use cannabis, thereby supplanting the MMRSA and adjusting various provisions of the AUMA;

**WHEREAS**, on January 16, 2019 the Office of Administrative Law officially approved state regulations developed by the Bureau of Cannabis Control (Bureau) for cannabis businesses across the supply chain (Regulations);

**WHEREAS**, the Regulations at 16 C.C.R. § 5416, subd. (d) expressly provide that “a [cannabis] delivery employee may deliver to **any jurisdiction** within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division”;

**WHEREAS**, in 2012, as amended in 2016 and 2017, the City adopted Chapter 8.36 of the Mendota Municipal Code pertaining to recreational and medical cannabis activities (Cannabis Ordinance), which bans commercial cannabis cultivation, commercial deliveries of cannabis, and cannabis dispensaries in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

**WHEREAS**, the City desires to amend its cannabis regulations to implement the provisions of the MAUCRSA to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), as well as provide access to adult use cannabis, while imposing sensible regulations on the use of land to protect the city's residents, neighborhoods, and businesses from disproportionately negative impacts.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The Recitals set forth above are incorporated herein and by this reference made an operative part hereof.

**SECTION 2.** Section 3 amends Title 8, Chapter 8.36 of the Mendota Municipal Code to regulate personal cannabis use and cultivation only, and to eliminate the ban on dispensaries. Section 4 adds Title 8, Chapter 8.37 to the Mendota Municipal Code to establish regulations applicable to commercial cannabis businesses.

**SECTION 3.** Title 8, Chapter 8.36 of the Mendota Municipal Code is hereby amended as follows:

**Chapter 8.36 – ~~MEDICAL MARIJUANA~~ PERSONAL CANNABIS USE AND CULTIVATION**

**8.36.010 – Purpose and intent**

It is the purpose and intent of this Chapter 8.36, pursuant to Section 25123(d) of the Government Code to regulate the cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale, and consumption of ~~cannabis~~marijuana to preserve the public peace, health, safety and general welfare of the citizens of the city of Mendota. ~~It is also the purpose and intent of this Chapter 8.36 to continue in effect the city of Mendota's prohibition of marijuana dispensaries and limitations on the places where marijuana may be consumed.~~

(Ord. No. 17-05, § 1, 4-25-2017)

### **8.36.020 – Relationship with other laws**

This chapter is not intended to, nor shall it be construed or given effect in a manner that causes it to apply to, any activity that is regulated by federal or state law to the extent that application of this chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. It is the intention of the city council that this chapter shall be interpreted to be compatible and consistent with federal and state enactments and in furtherance of the purposes which those enactments express. It is the intention that the provisions of this chapter will supersede any other provisions of this Mendota Municipal Code found to be in conflict.

(Ord. No. 17-05, § 1, 4-25-2017)

### **8.36.030 –Definitions**

Notwithstanding any other provision in the Mendota Municipal Code, for purposes of this Chapter 8.36, the following terms shall have the following meanings:

"Act" means the Adult Use of Marijuana Act ("AUMA") or Proposition 64, and any amendments thereto. The terms "Act," "Adult Use of Marijuana Act," "AUMA," and "Proposition 64" may be used interchangeably, but shall have the same meaning.

"Cannabis" or "marijuana" shall have the meaning set forth in California Business and Professions Code Section 19300.5(f). "Cannabis" and "marijuana" may be used interchangeably, but shall have the same meaning.

"Collective or cooperative cultivation" means the association within California of qualified patients, persons with valid identification cards, and the designated primary caregivers of patients and persons with identification cards to cultivate medical marijuana.

"Commercial ~~cannabis~~marijuana operation" means any commercial cannabis activity as set forth in California Business and Professions Code Section 19300.5(k) and allowed under the Act, and all uses permitted under any subsequently enacted state law pertaining to the same or similar uses for recreational cannabis.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, storing or trimming of ~~medical marijuana~~cannabis.

~~"Delivery" means the commercial transfer of medical marijuana from a dispensary to a qualified patient, primary caregiver or person with an identification card, as defined in Section 11362.7 of the California Health and Safety Code, through any means of transport or delivery service. The term "delivery" also includes the use by a medical marijuana dispensary, as defined herein, of any technology platform that enables qualified patients or primary caregivers to arrange for or facilitate the transfer of medical marijuana by a dispensary.~~

~~"Marijuana dispensary" or "dispensary" means any facility or location, whether fixed or mobile, where marijuana is offered, provided, sold, made available or otherwise distributed to more than two persons.~~

~~"Medical marijuana" or "medical cannabis" means "medical cannabis" as defined in Section 19300.5, subdivision (af) of the California Business and Professions Code.~~

~~"Person" means any individual, partnership of any kind, corporation, limited liability company, association, joint venture, or other organization or entity, however formed.~~

~~"Recreational cannabismarijuana" or "recreational cannabismarijuana use" means all uses of cannabis not included within the definition of "medical marijuana use."~~

(Ord. No. 17-05, § 1, 4-25-2017)

### **8.36.040 – Regulations applicable to the consumption of marijuana**

No person shall smoke, ingest, or otherwise consume either recreational or medical cannabismarijuana in the city of Mendota unless such smoking, ingesting or consumption occurs entirely within that person's principal place of residence or on the premises of that person's principal place of residence but out of public view. "Out of public view" shall mean out of view from public rights-of-way where members of the public are lawfully entitled to be. The phrase "inside a private residence" shall mean inside habitable areas and shall include garages, whether attached or detached, and other accessory buildings.

Medical cannabismarijuana may also be consumed within a clinic, health care facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health and Safety Code.

All consumption shall be done in a manner so as to not cause a nuisance to nearby residents with noxious odors or other adverse health and safety impacts.

(Ord. No. 17-05, § 1, 4-25-2017)

### **8.36.050 – Cultivation of cannabismarijuana**

- A. Personal Use Cultivation. An individual person shall be allowed to cultivate medical or recreational cannabismarijuana to the extent permitted by applicable state law, within his or her private residence, in an attached garage, or in an accessory building if the property is detached single-family

residential. Cultivation for personal use shall be subject to the following requirements:

1. Area. The ~~cannabismarijuana~~ cultivation area shall not exceed thirty-two (32) square feet measured by the canopy and not exceed ten (10) feet in height per residence. This limit applies regardless of the number of qualified patients or persons residing in the residence. The cultivation area shall be a single designated area.
2. Lighting. ~~CannabisMarijuana~~ cultivation lighting shall not exceed a total of one thousand two hundred (1,200) watts.
3. Building Code Requirements. Any alterations or additions to the residence, including garages and accessory buildings, shall be subject to applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including lot coverage, setback, height requirements, and parking requirements.
4. Gas Products. The use of gas products (CO<sub>2</sub>, butane, etc.) for ~~cannabismarijuana~~ cultivation or processing is prohibited.
5. Evidence of Cultivation. From a public right-of-way or other public space there shall be no exterior evidence of ~~cannabismarijuana~~ cultivation occurring on the site.
6. Residence. The person shall reside in the residence where the ~~cannabismarijuana~~ cultivation occurs.
7. Cultivation Elsewhere in City. The person shall not participate in ~~cannabismarijuana~~ cultivation in any other location within the city of Mendota.
8. Incidental use. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for marijuana cultivation.
9. Ventilation. The ~~cannabismarijuana~~ cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the residence, or property line for detached single-family residential, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence and cultivating the ~~cannabismarijuana~~. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the California Building Code Section 1203.4, Natural Ventilation, or 402.3, Mechanical Ventilation (or its equivalent(s)).
10. Storage of Chemicals. Any chemicals used for ~~cannabismarijuana~~ cultivation shall be stored outside of the habitable areas of the residence



and outside of public view from neighboring properties and public rights-of-way.

11. Nuisance. The ~~cannabismarijuana~~ cultivation area shall: not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts; and not be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.
12. Property Owner Authorization. For rental property, the lessee shall obtain written authorization from the property owner or property management company to cultivate ~~cannabismarijuana~~.
13. Notification. The owner and any lessee of the residence upon which cultivation will occur shall inform the police department of the intent to cultivate ~~cannabismarijuana~~ and pick up a handout setting forth the owner and lessee responsibilities under this section. This notification shall be provided prior to the commencement of the cultivation except that, for existing cultivation, the information shall be provided within ten (10) days of the effective date of this chapter. The police department may direct the owner and lessee to the department of planning and development services for more information about building code and permit requirements that may be applicable if alterations or additions to the residence are contemplated. The police department and department of planning and development services shall keep patient information confidential to the extent required by law.
14. Additional Requirements for Garages and Accessory Buildings. The following additional requirements shall apply for personal use cultivation that occurs in a garage or accessory building: the garage or accessory building shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. The garage or building shall include a burglar alarm monitored by an alarm company or private security company. The garage or building, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door.

~~B. Collective or Cooperative Cultivation. Except as provided in Chapter 17.99, the collective or cooperative cultivation of marijuana shall be prohibited in the city.~~

(Ord. No. 17-05, § 1, 4-25-2017; Ord. No. 17-13, § 4, 9-12-2017) ~~8.36.060 – Marijuana dispensaries.~~

- A. ~~Commercial Marijuana Operations. Except as provided in Chapter 17.99, commercial marijuana operations as defined in Section 8.36.030 are prohibited within the city.~~
- B. ~~Dispensaries. Marijuana dispensaries as defined in Section 8.36.030 are prohibited within the city.~~
- C. ~~Exceptions. The following facilities providing medical marijuana to qualified patients are not subject to the dispensary ban so long as they comply with this section, the Mendota Municipal Code, Health and Safety Code Sections 11362.5 and 11362.7 et seq. and all other applicable laws, and hold a current and valid state license duly issued in accordance with the applicable California law:~~
  - 1. ~~A clinic, as defined in Section 1200 of the Health and Safety Code;~~
  - 2. ~~A health care facility, as defined in Section 1250 of the Health and Safety Code;~~
  - 3. ~~A residential care facility for persons with chronic life-threatening illness, as defined in Section 1568.01 of the Health and Safety Code;~~
  - 4. ~~A residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code;~~
  - 5. ~~A home health agency, as defined in Section 1727 of the Health and Safety Code, or a hospice that operates in accordance with Section 1726 of the Health and Safety Code; and~~
  - 6. ~~A pharmacy, as defined in Section 4037 of the Business and Professions Code.~~
- D. ~~Deliveries. The delivery of marijuana as defined in Section 8.36.030 is prohibited in the city regardless of whether the delivery is initiated within or outside of the city, and regardless of whether a technology platform is used for delivery by the dispensary.~~

(Ord. No. 17-05, § 1, 4-25-2017; Ord. No. 17-13, § 5, 9-12-2017)

### **8.36.0760 – Violation and enforcement**

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by Title 1, Chapter 1.20 of this code. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, payment to the city any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, civil penalties as set by the city council by resolution and any other relief or remedy available at law or equity. The city may also pursue any and all remedies and actions available and applicable under local and state laws for any violations of this chapter. The Mendota Police Department, with administrative assistance from the city manager's office, shall have primary responsibility for enforcement of the provisions of this chapter; however, nothing herein shall limit the ability of the city's designated code enforcement officer to enforce the provisions of this chapter as may be necessary from time-to-time.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders this chapter unlawful, the city intends that such penalties be severable from the remaining penalty provisions and the city will only pursue non-criminal remedies for violations of this chapter.

Nothing in this chapter shall be construed as imposing on the enforcing officer or the city of Mendota any duty to issue any notice to abate, nor to abate, nor to take any other action with regard to any violation of this chapter, and neither the enforcing officer nor the city of Mendota shall be held liable for failure to issue an order to abate, nor for failure to abate, nor for failure to take any other action with regard to any violation of this chapter.

(Ord. No. 17-05, § 1, 4-25-2017)

### **8.36.0870 – Judicial review**

Judicial review of a decision made under this chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the Section 1094.5 of the California Code of Civil Procedure. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in Section 1094.6 of the California Code of Civil Procedure, which shall be applicable for such actions.

(Ord. No. 17-05, § 1, 4-25-2017)

### **8.36.0980 – Severability**

If any part of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

(Ord. No. 17-05, § 1, 4-25-2017)

**SECTION 4.**Title 8, Chapter 8.37 is hereby added to the Mendota Municipal Code as set forth below:

## **Chapter 8.37 – COMMERCIAL CANNABIS BUSINESSES**

### **8.37.010 – Purpose and Intent**

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), as well as provide access to adult use cannabis, while imposing sensible regulations on the use of land to protect the city's residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution, and transportation of cannabis, cannabis products, medicinal cannabis, and medicinal cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City and to enforce rules and regulations consistent with state law. The provisions of this Chapter are in addition to any other permits, licenses, and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses, and approvals required under state, city, or other law.

### **8.37.020 – Definitions**

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

"Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

"Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It also means the separated resin, whether crude or purified, obtained from cannabis. It includes

medicinal cannabis, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination, or "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

"Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.

"Cannabis retail business" means a business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the city authorizing the operation of a retailer, and a valid state A-license or M-License as required by state law to operate a retailer.

"Canopy" means the designated area(s) at a licensed premise, except nurseries, that will contain mature plants at any point in time. (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries; (2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary which include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds or garden plots; and if mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

"Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

"Chief of Police" means the Chief of Police of the City of Mendota, or his or her designee(s).

"City" means the City of Mendota.

"City Manager" means the City Manager of the City of Mendota, or his or her designee(s).

"Code" means the Mendota Municipal Code.

"Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products by an operator who has a license issued by the state.

"Commercial cannabis business" means any business or operation which engages in commercial cannabis activity.

"Commercial cannabis business permit" means a regulatory permit issued by the City pursuant to this Chapter to a commercial cannabis business, and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the commercial cannabis activity at issue.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

"Cultivator" means a person holding a valid commercial cannabis business permit for cultivation issued by the City, and, a valid state license for cultivation.

"Customer" means a natural person 21 year of age or over or a natural person 18 year of age or older who possesses a physician's recommendation.

"Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. It also includes the use by a retailer of any technology platform owned and controlled by the retailer. Delivery must be part of a store-front retailer.

"Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

"Distributor" means a person holding a valid commercial cannabis business permit for distribution issued by the City, and, a valid state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed

cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed retailer.

"Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

"Greenhouse" means a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental lighting for cultivation.

"Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.

"Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container.

"License" means a license issued by the state to engage in commercial cannabis activity, and includes both an A-license and an M-license, as well as a testing laboratory license.

"Licensee" means any person holding a state license, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

"Limited-access area" means an area in which cannabis is stored or held and is only accessible to some licensee and authorized personnel.

"Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

"M-license" means a state license issued for commercial cannabis activity involving medicinal cannabis.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

"Manufacturer" means a licensee with a valid commercial cannabis business permit that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.



"Microbusiness" means the cultivation of cannabis on an area less than 10,000 square feet, by an entity authorized to act as a licensed distributor, Level 1 manufacturer, and retailer under state law, provided such licensee can demonstrate compliance with all requirements imposed by state law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1 of the Business and Professions Code.

"Operation" means any act for which licensure is required under the provisions of state law or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following: (1) a person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance; (2) the Manager of a nonprofit or other entity; (3) a member of the board of directors of a nonprofit; or (4) an individual who will be participating in the direction, control, or management of the person applying for a license or who has a financial interest in the business other than a fixed lease of real property.

"Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.

"Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

"Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee unless the operator is granted an M-License and an A-License for the same type of activity and such operation is lawful under state and local laws, rules and regulations.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not

include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

"Testing laboratory" means a laboratory, facility, or entity with a commercial cannabis business permit that offers or performs tests of cannabis or cannabis products and that is both of the following: (1) accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; (2) licensed by the Bureau.

"Transport" means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.

"Youth center" means any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or similar amusement park facilities. It shall also include a park, playground or recreational area specifically designed to be used by children which may have play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on city, county or state parks. This definition shall not include any private martial arts, yoga, ballet, music or similar studio of this nature nor shall it include any private athletic training facility, pizza parlor, dentist office or doctor's office primarily serving children.

### **8.37.030 – Commercial Cannabis Operations Prohibited Except as Specifically Authorized by this Chapter**

Except as specifically authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Bus. & Prof. Code section 26090(e)), of cannabis or cannabis products and medicinal cannabis or medicinal cannabis product is expressly prohibited in the City.

### **8.37.040 – Compliance with Laws**

This Chapter is intended to implement state law. Every cannabis retail business and commercial cannabis business must comply with all applicable state and local laws.

### **8.37.050 – Permits Required to Engage in Commercial Cannabis Operations**

It shall be unlawful for any person in or upon property located within the City to engage in, conduct or carry on (or to permit to be engaged in, conducted or carried on)

commercial cannabis operations unless the person: (1) has applied for and entered into a development agreement with the City; (2) has a valid commercial cannabis business permit from the City; (3) has a valid state license for the business's cannabis activity; (4) has a valid Conditional Use Permit; (5) is currently in compliance with all applicable state and local laws; (6) has a Cannabis Business License Tax certificate.

### **8.37.060– Development Agreement Required for Commercial Cannabis Businesses**

- A. Prior to operating in the City and as a condition of issuance of a Conditional Use Permit for commercial cannabis operations, each commercial cannabis business shall enter into a development agreement pursuant to Government Code Section 65864 et seq. with the City setting forth the terms and conditions under which the commercial cannabis business will operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as set forth in subsection (C) of this section, and such other terms and conditions that will protect and promote the public health, safety, and welfare. Further procedures and minimum standards for a development agreement may be enacted by resolution of the City Council.
- B. The Planning Commission shall make a recommendation to the City Council on whether to approve a development agreement submitted to it by City staff. The City Council shall make a final decision on whether to approve a development agreement recommended to the City Council by the Planning Commission.
- C. Development agreements shall include a provision requiring the payment of a public safety impact mitigation fee based on a pro-rata share of projected annual enforcement costs for commercial cannabis businesses within the City.
- D. All cannabis businesses operating pursuant to a development agreement shall be subject to any applicable taxes approved by the voters.

### **8.37.070– Development Agreement Application**

- A. Application Process
  - 1. Completed development agreement applications shall be submitted via US Mail or in person to City Hall, located at 643 Quince St, Mendota, CA 93640, with attention to the City Manager.
  - 2. Completed development agreement applications shall be submitted during the Development Agreement Application Submittal Period (the “Submittal Period”), which shall be established by resolution of the City Council. The City Council may by resolution establish one or more Submittal Periods, as necessary to implement the provisions of this Chapter.

3. Applicants are required to submit one unbound and two bound copies of the complete application, including all appendix and/or attachments. Applicants are also required to submit the complete application on either a USB thumb drive or CD.
4. Development agreement applications must be submitted in accordance with the requirements set forth in subdivision (B) herein, and with the required cost recovery deposit, which shall be established by resolution of the City Council.
5. The City Manager shall review development agreement applications for completeness within thirty (30) days after the end of the Submittal Period.
6. Within sixty (60) days after the end of the Submittal Period, development agreement applications shall be scored by an independent five-member Application Evaluation Committee, selected by the City Manager. The City shall employ blind scoring, whereby the identities of the owners will not be revealed, when the written proposals are scored by the Application Evaluation Committee in accordance with the criteria set forth in the Guidelines. No individual reviewing applications for completeness may participate in the selection of applicants by the Application Evaluation Committee.
7. The top two scoring development agreement applicants for all authorized license-types shall be placed on the Qualified Applicant List maintained by the City Manager. Upon conclusion of any appeal of the selections made by the Application Evaluation Committee, or the appeal period if no appeal is filed, the applicants on the Qualified Application List shall be notified that they are invited to submit an application for a Conditional Use Permit.
8. Applicants applying for more than one license type, or more than one location may not combine their application submittal package. A separate independent application must be submitted for each license type.

#### B. Application Format

1. Application shall be limited to 75 pages, including all responses, appendix, tables, etc. The page total does not include the applicant/owner information form or proof of payment, but does include the cover letter. Any submittal pages beyond this requirement will not be considered. Double-sided pages count as two pages.
2. 12-point font shall be used in the narrative portions of the application. All pages shall measure 8.5" x 11" and all pages are to be numbered in sequential order.

C. Application Contents. Development agreement applications shall include all required information set forth below and shall be provided (and labeled) in the application in the same order as shown below:

1. *Location of Proposed Cannabis Business.* Proposed commercial cannabis businesses may only operate in a location where such land uses will be consistent with the provisions of Title 17 of this Code.
2. *Evidence of Owner Consent.* Evidence that the applicant has consent of the owner of the property to operate a commercial cannabis business at the proposed location. A real estate letter of intent (“RELOI”) to lease or buy from an authorized party, a lease, an option to lease or purchase and ownership are acceptable forms of control. Letters of interest of any kind shall not be accepted. RELOIs, lease options and leases must clearly and specifically state that the RELOI, lease option or lease is for the type of establishment listed in the proposal. The RELOI, lease option or lease must be for two years or longer.
3. *Statement of Qualifications.* Describe applicant’s qualification relative to the application, and experience running businesses similar to the one proposed, including cannabis and/or non-cannabis businesses. Applicants should also provide a plan demonstrating a minimum percentage of locally hired employees and proposed recruitment strategies for new hires.
4. *Business Implementation.* Provide verifiable, detailed descriptions and other background information for owners, key personnel and staff of the business, including the estimated number of employees to be hired in the first year, second year, third year, fourth year and fifth year and hourly wages for each employee. Describe other resources, including financial resources, dedicated to implement this proposal.
5. *Understanding and Approach.* Provide a statement demonstrating the business’ understanding and approach to running the business and how that approach will integrate the business into the community in which it is located. This section shall include the following:
  - i. Description of day-to-day operations to meet industry best practices for the specific type of license in which applying for in the City.
  - ii. Description of how and where inventory will be kept, including the specific manner of securing the inventory, and how records will be maintained.
  - iii. Description of how any transaction information including patient records, reports, manifest and any other documents will be stored.

- iv. Description of how medical and adult-use will be tracked and monitored to prevent diversion.
- v. Description of applicant's practices for preventing deterioration of any cannabis goods held by the applicant, including any practices for responding to product recalls.
- vi. Description of applicant's practice for transfer/transport of cannabis products to and from premises.
- vii. Description of method(s) that will be used to dispose of unused cannabis.
- viii. A schedule for beginning operations, including a narrative outlining any proposed construction, improvements, and a timeline for completion.
- ix. Description of any environmentally-friendly business practices relating to energy and climate, water conservation and materials/waste storage.
- x. Description of the method(s) by which the applicant will mitigate any potentially adverse impact, such as loitering, graffiti, traffic, light, odor or noise, on surrounding property owners.
- xi. Site Plan – a scaled premises diagram showing the boundaries of the property and proposed premises with all boundaries, dimensions, entrances and exits, interior partitions walls, labeling of each room, windows and common shared entryways. If the proposed premises consist of only a portion of the property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for. A floor plan shall also be included.
- xii. Business Plan – a budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation costs. The budget must demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the source and uses of funds.
- xiii. Air Quality Management Plan – must demonstrate that air circulation does not impact employee health and welfare, those surrounding the business, and surrounding outdoor areas.
- xiv. If the application is for a retail business with delivery services:

1. Description of the process to ensure driver and patient safety.
  2. Description of the process to verify delivery is to a qualified purchaser and to a qualified location
  3. Description of the process to track and maintain communication with the delivery person at all times
  4. Description of the process to verify deliveries and provide accurate manifest for audit purposes.
6. *Local Ownership and Community Benefit.* Describe the business plan, if any, to maximize local ownership and community benefit.

**8.37.080–Location and Design Requirements for Commercial Cannabis Businesses**

A. Each proposed commercial cannabis business shall:

1. Be within a fully enclosed building and must not be visible from the public right-of-way.
2. Conform to the General Plan, any applicable specific plans, master plans, and design requirements.
3. Comply with all applicable zoning and related development standards.
4. Be constructed in a manner that prevents odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. Odors from the commercial cannabis business shall not be detectable from outside the premises. Best available odor control technology shall be utilized.
5. Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
6. Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
7. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.
8. Each applicant shall provide a neighborhood responsibility plan so the review authority may find that the proposed use and its operating characteristics are not detrimental to the public health, safety,

convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.

B. Each proposed commercial cannabis business shall:

1. Demonstrate compatibility with the surrounding character of the neighborhood and blend in with existing buildings. The establishment should look like any other similarly situated building.
2. Comply with all applicable zoning and related development standards including, but not limited to, parking, lighting, materials, and colors.
3. Signage, as described below, shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered.

#### **8.37.090 – Additional Location Requirements for Retail Cannabis Businesses**

- A. All cannabis retail businesses must be located on property zoned C-3 (Central Business and Shopping) and must meet all of the requirements for development in that zone.
- B. All properties in which the cannabis retail business is located shall be no closer than eight hundred (800) feet from any parcel containing any of the following:
  1. A cannabis retail business.
  2. A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
  3. A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
  4. A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.

#### **8.37.100 – Limit on Number of Retail Cannabis Businesses Permitted to Operate**

A maximum of one cannabis retail business shall be permitted for every 15,000 residents in the City.

#### **8.37.110 – Operating Requirements for Commercial Cannabis Businesses**



- A. Cannabis shall not be consumed by any person on the premises of any commercial cannabis business.
- B. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.
- C. No person shall cause or permit the sale of tobacco products on or about the premises of the commercial cannabis business.
- D. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business or cannabis retail business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- E. Commercial cannabis businesses shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the city. Cannabis retail businesses and commercial cannabis businesses shall ensure that such information is compatible with the city's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.
- F. All cannabis and cannabis products sold, distributed, or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with state and local laws.
- G. Commercial cannabis businesses shall provide the City Manager or his/her designee(s) with the name, telephone number (both landline and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- H. Signage
  - 1. Business identification signage shall conform to the requirements of this Code.
  - 2. No signs placed on the premises of a cannabis retail business or a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
  - 3. Each entrance shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis or

cannabis products on the premises or in the areas adjacent to the business is prohibited.

4. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business may advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises or elsewhere including, but not limited to, the public right-of-way.
5. Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.

#### I. Minors

1. Except as provided below, persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person who is not at least twenty-one (21) years of age.
2. The entrance to a commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
3. Persons at least eighteen (18) years old shall be allowed on the premises of a medicinal cannabis retail business to purchase medicinal cannabis or medicinal cannabis products. The entrance to a medicinal cannabis retail business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) is permitted to enter upon the premises of the medicinal cannabis retail business.

- J. Best available odor control technology and devices shall be incorporated in a commercial cannabis business to ensure that odors from cannabis are not detectable off-site. A sufficient odor absorbing ventilation and exhaust system shall be provided so that odor generated inside the premises that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis retail business or commercial cannabis business. The following equipment, or any other equipment which the City Manager or his/her designee(s) determine is a more effective method or technology, must be installed and maintained:

1. An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally;
  2. An air system that creates negative air pressure between the premises' interior and exterior, so that the odors generated inside the premises are not detectable outside the premises.
- K. The original copy of the commercial cannabis business permit issued by the City and the City-issued business license shall be posted inside the commercial cannabis business in a location readily visible to the public.
- L. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- M. Community Relations
1. Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.
  2. During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from commercial cannabis business shall attend meetings with the City Manager or his/her designee(s), and other interested parties as deemed appropriate by the City Manager or his/her designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each commercial cannabis business shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).
  3. Each commercial cannabis business or cannabis retail business shall develop a city approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth use of cannabis, and that identifies resources available to youth related to drugs and drug addiction.
- N. The commercial cannabis business shall continually maintain the premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety and general welfare of employees, patrons, surrounding properties, and the general public. The premises shall not be maintained in a manner that causes a public or private nuisance. Litter must be removed daily from the premises, including adjacent public sidewalks and all parking lots under the

control of the cannabis retail business or commercial cannabis business; these areas must be swept or cleaned, either mechanically or manually, on a weekly basis to control debris; upkeep and operating characteristics must be compatible with abutting properties and the surrounding neighborhood.

### **8.37.120– Operating Requirements for Cannabis Retail Businesses**

#### **A. General**

1. Cannabis retail businesses, including delivery of cannabis, may operate between the hours of 6 am and 10 pm. Other non-sales related activities germane to the business may take place on premises after hours.
2. There shall not be a physician located on the premises, or available through electronic means, such as video conference, at any time for the purpose of evaluating patients for the issuance of a cannabis recommendation or card where applicable.
3. Prior to dispensing cannabis or cannabis products to any person, the cannabis retail business shall verify the age of each customer.
4. Entrances shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area. Individuals must show their identification in order to gain access into the retailer.
5. A cannabis retail business may have only that quantity of cannabis and cannabis products readily available to meet the daily demand for sale on-site in the retail sales area of the premises.
6. All restroom facilities shall remain locked and under the control of management.
7. Delivery vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.

#### **B. Security Measures**

1. A permitted cannabis retail business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis retail business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:

- i. Premises contain a secured lobby/trap room, where a customer first enters and awaits verification by the cannabis retail business that the customer is a qualified to purchase cannabis.
- ii. Premises contain only one entrance which members of the public enter and exit.
- iii. Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
- iv. Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
- v. Prevent individuals from remaining on the premises and nearby vicinity if they are not engaging in an activity directly related to the permitted operations of the cannabis retail business.
- vi. Establish limited access areas accessible only to authorized cannabis retail business personnel.
- vii. All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.
- viii. Install 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis retail business which are open and accessible to the public, all interior spaces where cannabis, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The cannabis retail business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the City Manager or his/her designee(s). Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the City Manager or his/her designee(s) upon request. Video shall be of sufficient quality

for effective prosecution of any crime found to have occurred on the site of the cannabis retail business, and shall be capable of enlargement via projection or other means, Internet Protocol address information shall be provided to the Mendota Police Department by the cannabis retail business, to facilitate remote monitoring of security cameras by the Mendota Police Department or its designee.

- ix. Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- x. Panic buttons shall be installed with direct notification to Mendota Police Department dispatch, and shall be configured to immediately alert dispatch for the Mendota Police Department.
- xi. Any bars installed on the windows or the doors shall be installed only on the interior of the building.
- xii. Armed security personnel shall be on-site during operating hours. If armed security personnel are not on-site when the cannabis retail business is closed, a verified response security patrol shall be utilized. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the Chief of Police.
- xiii. Premises shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- xiv. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the cannabis retail business; or (b) a licensed security professional.
- xv. The interior must have at least one camera placed to focus on each transaction, to include the clerk as well as the customer waiting area. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.

- xvi. An accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.
  - xvii. Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.
  - xviii. State of the art network security protocols in place to protect computer information and all digital data.
  - xix. Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
2. Each cannabis retail business shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or operational issues. The designated security representative/liaison shall, on behalf of the cannabis retail business, annually prepare and submit to the Chief of Police a security plan for approval and maintain a copy of the current security plan on the premises, to present to a peace officer immediately upon request that meets the following requirements:
- i. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
  - ii. Identifies all Managers of the cannabis retail business and their contact phone numbers.
  - iii. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
  - iv. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
  - v. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the premises, the parking lot, and any adjacent property under the business' control.
  - vi. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these

areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.

3. Provide a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency. For delivery, include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
4. Cooperate with the City whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
5. Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - i. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
  - ii. Diversion, theft, loss, or any criminal activity involving the cannabis retail business or any agent or employee of the cannabis retail business.
  - iii. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the cannabis retail business.
  - iv. Any other breach of security.
6. Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

### **8.37.130– Operating Requirements for Cannabis Distributors**

#### **A. General**

1. Distributors may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Control Ordinance, Title 9, Chapter 9.05 of this Code, as may be amended.
2. Distributor vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.



3. Distributor shall comply with all applicable state standards and laws, including but not limited to, Section 26001 (r) of the Business and Professions Code, as may be amended.

## B. Security Measures

1. A permitted distributor shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
  - i. Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
  - ii. Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
  - iii. Prevent individuals from remaining on the premises if they are not engaging in an activity directly related to the permitted operations of the distributor.
  - iv. Establish limited access areas accessible only to authorized personnel.
  - v. All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis or cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.
  - vi. Install 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces which are open and accessible to the public, all interior spaces where cannabis, cannabis products, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The distributor shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and that it is compatible with

the city's software and hardware. In addition, remote and realtime, live access to the video footage from the cameras shall be provided to the City Manager or his/her designee(s). Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the City Manager or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the distributor, and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Mendota Police Department by the distributor, to facilitate remote monitoring of security cameras by the Department or its designee.

- vii. Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- viii. Panic buttons shall be installed with direct notification to Mendota Police Department dispatch, and shall be configured to immediately alert dispatch for the Mendota Police Department.
- ix. Any bars installed on the windows or the doors of the premises shall be installed only on the interior of the building.
- x. Armed security personnel shall be on-site during all hours of operation or alternative security as authorized by the City Manager or his/her designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the Chief of Police.
- xi. Premises shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- xii. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the distributor; or (b) a licensed security professional.
- xiii. The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.

- xiv. An accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
- xv. Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.
- xvi. Have state of the art network security protocols in place to protect computer information and all digital data.
- xvii. Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- xviii. Identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the distributor, annually prepare and submit to the Chief of Police a security plan for approval and maintain a copy of the current security plan on the premises of the business, to present to a peace officer immediately upon request that meets the following requirements:
  - 1. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
  - 2. Identifies all Managers and their contact phone numbers.
  - 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
  - 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
  - 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the commercial cannabis business, the parking lot, and any adjacent property under the business' control.
  - 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure

that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.

2. As part of the application and permitting process each distributor shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency. The distributor shall stagger transportation times, vary routes from the premises, and take other security measures as requested by the Chief of Police.
3. The distributor shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
4. Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - i. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
  - ii. Diversion, theft, loss, or any criminal activity involving the distributor or any agent or employee of the distributor.
  - iii. The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
  - iv. Any other breach of security.
5. Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

### **8.37.140– Operating Requirements for Cannabis Cultivators**

#### **A. General**

1. Cultivator may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Control Ordinance, Title 9, Chapter 9.05 of this Code, as may be amended.
2. Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors or in a greenhouse.

3. Cannabis plants shall not be visible from a public or private road, sidewalk, park, or any common public viewing area.
4. Cultivator shall only be allowed to cultivate the square feet of canopy space permitted by state law.
5. Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
6. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
7. The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the cultivation site, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
8. All applicants seeking a commercial cannabis business permit for cultivation uses shall submit the following in addition to the information generally otherwise required for a commercial cannabis business permit:
  - i. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).
  - ii. A description of a legal water source, irrigation plan, and projected water use.
  - iii. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
  - iv. Plan for addressing public nuisances that may derive from the cultivation site.

## B. Security Measures

1. A permitted cultivator shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis and cannabis products at the commercial cannabis business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
  - i. Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
  - ii. Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
  - iii. Prevent individuals from remaining on the premises and nearby vicinity if they are not engaging in an activity directly related to the permitted operations of the cultivator.
  - iv. Establish limited access areas accessible only to authorized personnel.
  - v. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
  - vi. Install 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the business which are open and accessible to the public, all interior spaces where cannabis, cannabis products, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The cultivators shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and that it is compatible with the city's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the City Manager or his/her

designee(s). Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the City Manager or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the cultivation site business, and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Mendota Police Department by the cultivator, to facilitate remote monitoring of security cameras by the Mendota Police Department or its designee.

- vii. Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- viii. Panic buttons shall be installed with direct notification to Mendota Police Department dispatch, and shall be configured to immediately alert dispatch for the Mendota Police Department.
- ix. Any bars installed on the windows or the doors shall be installed only on the interior of the building.
- x. Armed security personnel shall be on-site during all hours of operation. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the Chief of Police.
- xi. Premises shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- xii. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the cultivator; or (b) a licensed security professional.
- xiii. The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.

- xiv. An accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.
- xv. Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.
- xvi. State of the art network security protocols in place to protect computer information and all digital data.
- xvii. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- xviii. Each cultivator shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the cultivator, annually prepare and submit to the Chief of Police a security plan for approval and maintain a copy of the current security plan on the premises, to present to a peace officer immediately upon request that meets the following requirements:
  - 1. Confirms that a designated Manager will be on duty during business hours.
  - 2. Identifies all Managers and their contact phone numbers.
  - 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
  - 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
  - 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the premises, the parking lot, and any adjacent property under the business' control.
  - 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or



causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.

2. As part of the application and permitting process each cultivator shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
3. Cooperate with the City whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
4. Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - i. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
  - ii. Diversion, theft, loss, or any criminal activity involving the cultivator or any agent or employee of the cultivator.
  - iii. The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
  - iv. Any other breach of security.
5. Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

### **8.37.150– Operating Requirements for Cannabis Testing Laboratory**

#### **A. General**

1. Testing laboratories may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Control Ordinance, Title 9, Chapter 9.05 of this Code, as may be amended.
2. Testing Laboratories shall comply with all applicable state standards and laws. Standard Operating Procedures, as recommended by the Bureau, must be followed.
3. Testing laboratories shall be required to conduct all testing in a manner pursuant to Business and Professions Code 26100 and shall be subject to any additional or subsequent state and local law.

## B. Security Measures.

1. A permitted testing laboratory shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis and cannabis products. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
  - i. Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
  - ii. Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
  - iii. Prevent individuals from remaining on the premises if they are not engaging in an activity directly related to the permitted operations of the testing laboratory.
  - iv. Establish limited access areas accessible only to authorized personnel.
  - v. All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.
  - vi. Install 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces which cannabis, cannabis products, cash, or currency is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The distributor shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and that it is compatible with the city's software and hardware. In addition, remote and realtime, live access to the video footage from the cameras shall be provided to the City Manager or his/her designee(s). Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the City Manager or his/her designee(s) upon request.

Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the testing laboratory, and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Mendota Police Department by the testing laboratory, to facilitate remote monitoring of security cameras by the Department or its designee.

- vii. Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- viii. Panic buttons shall be installed with direct notification to Mendota Police Department dispatch, and shall be configured to immediately alert dispatch for the Mendota Police Department.
- ix. Any bars installed on the windows or the doors of the premises shall be installed only on the interior of the building.
- x. Security personnel shall be on-site during all hours of operation or alternative security as authorized by the City Manager or his/her designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
- xi. Premises shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- xii. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the testing laboratory; or (b) a licensed security professional.
- xiii. The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.
- xiv. An accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.

- xv. Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.
- xvi. Have state of the art network security protocols in place to protect computer information and all digital data.
- xvii. Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- xviii. Identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the testing laboratory, annually prepare and submit to the Chief of Police a security plan for approval and maintain a copy of the current security plan on the premises of the business, to present to a peace officer immediately upon request that meets the following requirements:
  - 1. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
  - 2. Identifies all Managers and their contact phone numbers.
  - 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
  - 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
  - 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the testing laboratory, the parking lot, and any adjacent property under the business' control.
  - 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.

2. As part of the application and permitting process each testing laboratory shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
3. The testing laboratory shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
4. Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - i. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
  - ii. Diversion, theft, loss, or any criminal activity involving the testing laboratory or any agent or employee of the testing laboratory.
  - iii. The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
  - iv. Any other breach of security.
5. Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

#### **8.37.160–[Reserved]**

#### **8.37.170– Other Operational Requirements**

The City Manager or his/her designee may develop other commercial cannabis activity operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

#### **8.37.180 – Commercial Cannabis Business Permits**

Prior to commencing operations, a commercial cannabis business shall obtain a commercial cannabis business permit.

#### **8.37.190– Effect of State License Suspension, Revocation, or Termination**

Suspension of a license issued by the state shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the state reinstates or reissues the license. Should the state revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of the commercial cannabis business to operate within the City.

#### **8.37.200– City Business License**

Prior to commencing operations, a commercial cannabis business shall obtain a City business license.

#### **8.37.210–Building Permits and Inspection**

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone.

#### **8.37.220–Promulgation of Regulations, Standards, and Other Legal Duties**

- A. In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- B. Regulations shall be published on the City's website.
- C. Regulations promulgated by the City Manager shall become effective upon date of publication.

#### **8.37.230–Records and Recordkeeping**

- A. Each owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public

accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or his/her designee(s).

- B. Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business or cannabis retail business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
- C. All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing, and distribution processes until purchase as set forth MAUCRSA.
- D. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) regulations, each commercial cannabis business shall allow the City to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

### **8.37.240–Fees, Charges, and Taxes**

- A. No person may commence or continue any commercial cannabis activity in the City without timely paying in full all fees and charges required for the operation of a commercial cannabis business. Fees and charges associated with the operation of a commercial cannabis business shall be established by resolution of the City Council which may be amended from time to time.
- B. All commercial cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business, and other applicable taxes, and all license, registration, and other fees required under federal, state, and local law. Each commercial cannabis business shall cooperate with the City with respect to any reasonable request to audit the business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

### **8.37.250–Limitations on City’s Liability**

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

- A. They must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the city's issuance of the commercial cannabis business permit or the alleged violation of any federal, state or local laws by the commercial cannabis business or cannabis retail business or any of its officers, employees or agents.
- B. Maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the City Manager.
- C. Reimburse the City for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

### **8.37.260–Permit Holder Responsible for Violations**

The person to whom a commercial cannabis business permit is issued pursuant to this Chapter shall be responsible for violations of any laws, whether committed by the permittee or any employee or agent of the permittee, which occur in or about the premises of the commercial cannabis business or cannabis retail business.

### **8.37.270–Inspection and Enforcement**

- A. The City Manager, or his/her designee(s) charged with enforcing the provisions of this Chapter, may enter the location of a commercial cannabis business at any time, without notice, and inspect the premises as well as any recordings and records required to be maintained pursuant to this Chapter under applicable provisions of state law.
- B. It is unlawful for any person to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business



under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law.

- C. The City Manager, or his/her designee(s) charged with enforcing the provisions of this Chapter may enter the premises of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City shall be logged, recorded, and maintained in accordance with established procedures by the City Manager.

### **8.37.280–Violations Declared a Public Nuisance**

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

### **8.37.290–Each Violation a Separate Offense**

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business, or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the City.

### **8.37.300–Criminal Penalties**

Each and every violation of the provisions of this Chapter may in the discretion of the District Attorney or City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the County jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

### **8.37.310–Remedies Cumulative and Not Exclusive**

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

### **8.37.320–Severability**

If any section, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Chapter. The City Council hereby declares that it would have passed this ordinance and adopted this Chapter and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

### **8.37.330–No Vested Rights**

Neither this Chapter, nor any other provision of this Code or action, failure to act, statement, representation, certificate, approval, or permit issued by the City or its departments, or their respective representatives, agents, employees, attorneys, or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any commercial cannabis activity. Any benefit conferred by this ordinance shall expire permanently and in full on the effective date of the City Council's enactment of new cannabis legislation or upon repeal of this ordinance. Should the City repeal or amend this Chapter, no claim for loss of property rights or due process of any kind shall be maintained against the City.

### **8.37.340–Yearly Review**

The City Manager shall review the operation of this Chapter within twelve months of its effective date and report his/her findings and recommendations to the City Council. After the initial twelve month review, the City Council shall annually review this Chapter and its effects on the community.

**SECTION 10.**Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

**SECTION 11.**This ordinance shall take effect thirty (30) days after its passage.

**SECTION 12.**The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

\* \* \* \* \*

The foregoing ordinance was introduced on the 28<sup>th</sup> day of May, 2019 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 11<sup>th</sup> day of June, 2019 by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
Robert Silva, Mayor

ATTEST:

\_\_\_\_\_  
Celeste Cabrera-Garcia, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kinsey, City Attorney

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**RESOLUTION OF INTENTION OF THE  
CITY COUNCIL OF THE CITY OF MENDOTA  
TO INITATE AN AMENDMENT TO TITLE 17 OF  
THE MENDOTA MUNICIPAL CODE TO PERMIT  
COMMERCIAL CANNABIS RETAIL BUSINESSES  
IN THE C-3 ZONE**

**RESOLUTION NO. 19-35**

**WHEREAS**, in Ordinance No. 19-06, which is incorporated herein by this reference, the City of Mendota (City) is considering comprehensive amendments to its regulations pertaining to commercial cannabis businesses (Commercial Cannabis Amendments);

**WHEREAS**, the Commercial Cannabis Amendments contemplate an amendment to Title 17, Chapter 17.52, Section 17.52.030 to make cannabis retail businesses a permitted use in the C-3 (central business and shopping center district) subject to a conditional use permit;

**WHEREAS**, the Mendota Municipal Code (MMC), Section 17.08.040 sets forth a procedure for amendments to Title 17 of the MMC (Zoning Code) that change any property from one district to another, impose any regulation not heretofore imposed, or remove or modify any such regulations heretofore imposed;

**WHEREAS**, pursuant to MMC, Section 17.08.040, subd. (B), the City Council may propose an amendment to the Zoning Code by a resolution of intention; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council for the City of Mendota hereby authorizes Staff to proceed with amendments to the Title 17 of the Mendota Municipal Code to make cannabis retail businesses a permitted use in the C-3 zone subject to a conditional use permit.

**BE IT FURTHER RESOLVED** that the Clerk shall schedule a public hearing on the proposed amendments in accordance with the procedures set forth in Title 17, Chapter 17.08, Section 17.08.040 of the MMC.

---

Robert Silva, Mayor

ATTEST:

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 28<sup>th</sup> day of May, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Celeste Cabrera-Garcia, City Clerk

---

---

**AGENDA ITEM**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** CRISTIAN GONZALEZ, CITY MANAGER

**SUBJECT:** PROPOSED AMENDMENTS TO THE MENDOTA MUNICIPAL CODE TO REGULATE SIDEWALK VENDORS IN ACCORDANCE WITH SB 946

**DATE:** MAY 28, 2019

---

**BACKGROUND:**

On September 17, 2018, Governor Brown signed Senate Bill No. 946 (“SB 946”) into law. The new law establishes standards for the local regulation of “sidewalk vendors,” which are defined as any “person who sells food or merchandise from a . . . nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.” (Govt. Code § 51036(a).) Under the new law, a “local authority shall not regulate sidewalk vendors except in accordance” with SB 946. (§ 51037(a).) Among other things, the new law provides:

- Regulation of sidewalk vendors generally must be directly related to objective health, safety, or welfare concerns, which do not include perceived community animus or economic competition;
- Sidewalk vendors generally may not be prohibited, except in the area of a farmers’ market, swap meet, or temporary special permit;
- Specific requirements apply to the regulation of sidewalk vendors in public parks;
- Consent of non-governmental entity or individual may not be required as a prerequisite to operation;
- A permit or business license requirement may only be imposed if a social security number is not required to obtain the permit or license; and
- Failure to comply with sidewalk vending regulations may only be punished as specified in SB 946.

The Mendota Municipal Code (“MMC”) regulates sidewalk vendors in Chapter 5.28 (itinerant food vendors) and Chapter 5.32 (itinerant merchandise vendors). Notably, the City’s regulations apply to *both* motorized vendors (which are not covered under SB 946) and non-motorized vendors (which are).

After Council discussion, the City Attorney's office was directed to prepare amendments to the MMC's itinerant vendor regulations in accordance with SB 946.

**DISCUSSION:**

The proposed amendments make the following changes to the MMC:

- Repeals the existing provisions of Title 5, Chapter 5.28 (Itinerant Food Vendors) in their entirety and replaces them with new regulations applicable to “sidewalk vendors” consistent with the requirements of SB 946:
  - Requires a sidewalk vending permit, along with payment of an application fee and a permit fee to cover processing and regulatory expenses;
  - Establishes operating requirements for sidewalk vendors in accordance with SB 946; and
  - Establishes enforcement mechanisms in accordance with SB 946.
- Amends Title 5, Chapter 5.32 (Itinerant Merchandise Vendors) to regulate “motorized itinerant vendors” and incorporates many of the provisions deleted from former Title 5, Chapter 5.28 (Itinerant Food Vendors). These changes are designed to combine the City's existing regulations for itinerant merchandise vendors and itinerant food vendors while clarifying that they may be applied when the activity involves a “motorized unit” not subject to SB 946:
  - Creates a new classification of “motorized itinerant vendors,” which are defined to mean “a person, other than a sidewalk vendor, engaged in the business of selling food, goods, wares, merchandise or any other thing of value from a motorized unit;”
  - Deletes the provisions formerly applicable to “itinerant merchandise vendors;”
  - Reincorporates most of the requirements from former Title 5, Chapter 5.28 (Itinerant Food Vendors) but modifies them to apply to “motorized itinerant vendors” only; and
  - Modifies the procedures for revoking a permit to ensure due process.
- Amends Title 5, Chapter 5.04 (Business Licenses and Regulations Generally) for consistency with the above changes;
  - Deletes the definition for “itinerant food vendor;”
  - Adds a definition for “motorized itinerant vendor;”
  - Deletes the definition for “peddler;” and

- Adds a definition for “sidewalk vendor.”
- Amends Section 5.04.060 of Title 5, Chapter 5.04 (Business Licenses and Regulations Generally) to replace the reference to “peddler” with a reference to “sidewalk vendor;”
- Deletes Section 5.04.340 of Title 5, Chapter 5.08 (Business License Fees) which established the amount of the business license fee for “peddlers;”
- Amends Section 5.08.230 of Title 5, Chapter 5.08 (Business License Fees) to replace references to “itinerant vendor” with “motorized itinerant vendor;” and
- Deletes Section 10.20.020 of Title 10, Chapter 10.20 (Miscellaneous Traffic Regulations), which established requirements for the parking of “temporary facilities” used in connection with “itinerant vendors.”

**FISCAL IMPACT:**

The City will likely incur additional costs to the extent these amendments prompt additional sidewalk vending and associated regulatory oversight. However, any increased costs will largely be offset by increased revenue from business license fees, and by a new sidewalk vending permit fee, which will be specifically designed to recover the increase costs associated with regulating sidewalk vendors.

**RECOMMENDATION:**

Staff recommends that the Mayor perform the public hearing, that the Council conduct the second reading, and that the Council adopt Ordinance No. 19-05.



**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA AMENDING  
THE MENDOTA MUNICIPAL CODE TO  
REGULATE SIDEWALK VENDORS IN  
ACCORDANCE WITH SB 946**

**ORDINANCE NO. 19-05**

**WHEREAS**, the City of Mendota (City) is responsible for enforcing laws and regulations for the health and safety of the City's residents;

**WHEREAS**, Senate Bill ("SB") 946 was signed into law on September 17, 2018, and became effective January 1, 2019;

**WHEREAS**, SB 946 limits the authority of cities and counties to regulate sidewalk vendors, except in accordance with California Government Code Sections 51038 and 51039;

**WHEREAS**, the City Council finds that the establishment of a sidewalk vending program will benefit the City as a whole by facilitating entrepreneurship and providing economic opportunity for people to support themselves and their families, and by contributing to a diversity of food options and lively streets;

**WHEREAS**, the City Council finds that the act of vending on sidewalks and other areas of the public right-of-way also creates the potential for increased safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic;

**WHEREAS**, the City Council finds that restrictions on sidewalk vending are needed to accommodate vendors and their equipment, while also safe-guarding the flow of pedestrian movement on sidewalks and in the public right-of-way, and ensuring no interference with the performance of police, firefighter, and emergency medical personnel services;

**WHEREAS**, the City Council finds that the regulation of vendors engaged in the sale of food and food products will help to ensure that sidewalk vendors obtain all necessary permits and comply with applicable sanitation, food preparation, and food handling laws, and thereby will protect the public health and safety against health problems such as food contamination, poor hygienic practices, and the threat of food poisoning;

**WHEREAS**, the City Council finds that regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant;

**WHEREAS**, the City Council finds that restrictions on sidewalk vending in public parks are necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks;

**WHEREAS**, the City Council finds that restrictions on sidewalk vending in residential areas are necessary to ensure that such areas are protected from excessive noise and traffic impacts while allowing economic opportunities for sidewalk vendors;

**WHEREAS**, the City Council adopts this Ordinance under the authority provided in SB 946, and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City's purpose of protecting of the health, safety, and welfare of its residents, businesses, and visitors;

**WHEREAS**, all legal prerequisites to the adoption of this Ordinance have occurred; and

**WHEREAS**, the City Council of the City of Mendota hereby finds and determines that all of the above Recitals are true and correct.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The Recitals set forth above are incorporated herein and by this reference made an operative part hereof.

**SECTION 2.** Section 3 of this ordinance replaces Title 5, Chapter 5.28 in its entirety to establish regulations for sidewalk vendors in accordance with SB 946. Section 4 amends Title 5, Chapter 5.32 to incorporate deleted provisions of former Title 5, Chapter 5.28 and to clarify that the chapter, as amended, does not apply to sidewalk vendors. Sections 5, 6, 7, 8, and 9 amend various provisions for consistency with the above changes.

**SECTION 3.** Title 5, Chapter 5.28 of the Mendota Municipal Code is hereby amended to read as follows:

## **Chapter 5.28 – SIDEWALK VENDORS**

### **5.28.010 – Definitions**

The following words and phrases, whenever used in this chapter, shall mean as follows:

“Certified farmers’ market” shall mean a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

“City Manager” shall mean the City Manager of the City of Mendota, or his or her designee.

“Person” shall mean one or more individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnerships, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit, or any other activity.

“Roaming sidewalk vendor” shall mean a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk vendor” shall mean a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path. A motorized itinerant vendor is not a sidewalk vendor.

“Stationary sidewalk vendor” shall mean a sidewalk vendor who sells from a fixed location.

“Swap meet” shall mean a location operated in accordance with Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

“Temporary special permit” shall mean a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, city or privately sponsored filming, parades, or outdoor concerts.

“Sell” or “selling” shall mean to sell, offer for sale, display for sale, or solicit offers to purchase, food, food products, beverages, goods, or merchandise.

“Vending cart” shall mean a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for selling, whether mobile or stationary, that is not a vehicle as defined in the California Vehicle Code.

#### **5.28.020 – Permit Required**

No person shall conduct or engage in sidewalk vending within the City without first obtaining a sidewalk vending permit pursuant to this chapter.

## **5.28.020 – Sidewalk Vending Permit Application**

- A. To apply for a sidewalk vending permit, a person must file an application with the City Manager accompanied by a nonrefundable application processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the City Manager and shall contain, at a minimum, the following:
1. The legal name and current address and telephone number of the applicant;
  2. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
  3. A description of the food or merchandise offered for sale;
  4. A description of the area(s) and time(s) the applicant intends to operate;
  5. Whether the applicant intends to operate as a stationary sidewalk vendor and/or a roaming sidewalk vendor;
  6. Sufficient information to determine whether the applicant will comply with the operating requirements set forth in Section 5.28.080.
  7. A California seller's permit number pursuant to Section 6067 of the Revenue and Taxation Code;
  8. Certification by the applicant that the information contained in the application is true to his or her knowledge and belief;
  9. If a vendor of food or food products, certification of completion of a food handler course and proof of all required approvals from the Fresno County Department of Public Health;
  10. Proof of liability insurance; and
  11. Any other reasonable information regarding the time, place, and manner of the proposed vending.
- B. If the application requests the applicant's social security number, the applicant may, in lieu of providing a social security number, provide a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number. The number collected shall not be available to the public for inspection, is confidential, and

shall not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order.

#### **5.28.030 – Sidewalk Vending Permit Fee**

Prior to the issuance of a sidewalk vending permit, all applicants shall pay a nonrefundable sidewalk vending permit fee in an amount established by resolution of the City Council.

#### **5.28.040 – Criteria for Approval or Denial of Permit**

The City Manager shall approve the issuance of a permit unless he or she determines that:

- A. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
- B. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents;
- C. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in section 5.28.090; or
- D. The applicant has failed to pay the sidewalk vending permit fee required pursuant to section 5.28.030
- E. The applicant has failed to pay any previous administrative fines, complete any community service, and/or complete any other alternative disposition associated with a previous violation of this chapter.

If the permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

#### **5.28.050 – Permit Expiration and Renewal**

A sidewalk vending permit shall be valid for twelve (12) months from the date of issuance, and shall expire and become null and void on the anniversary of its issuance. A person may apply for a permit renewal on a form provided by the City prior to the expiration of his or her active sidewalk vending permit.

#### **5.28.060 – Permit Rescission**

The City Manager may rescind a permit issued to a sidewalk vendor for a fourth violation or subsequent violation of this Chapter. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending permit upon the expiration of the term of the rescinded permit.

### **5.28.070 – Appeals**

Any person aggrieved by the decision of the City Manager to issue, deny issuance, or rescind a sidewalk vending permit may appeal the decision to the City Council. The appeal shall be filed with the City Clerk within fourteen (14) days following the date of the City Manager’s decision.

### **5.28.080 – Permits Nontransferable**

No permit granted pursuant to this chapter shall be transferable.

### **5.28.090 – Operating Requirements**

Sidewalk vendors shall comply with the following:

A. No sidewalk vendor shall vend in the following locations:

1. Within fifteen (15) feet of any street intersection;
2. Within ten (10) feet of any fire hydrant, fire call box, or other emergency facility;
3. Within ten (10) feet of any driveway or driveway apron;
4. Upon or within any roadway, median strip, or dividing section;
5. Upon or within any parkway or landscaped areas lacking paved pathways for travel;
6. Within 500 feet of a permitted certified farmers’ market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the farmers’ market or swap meet, or the limited duration of the temporary special permit;
7. Within 500 feet of a public or private school site during school hours, and not within one hour before or one hour after school drop off and pick up operations;
8. In any City parking lot;
9. On private property without the consent of the property owner.

B. No sidewalk vendor shall sell in a manner that blocks or obstructs the free movement of pedestrians or vehicles. Sidewalk vendors must at all times provide a clearance of not less than three (3) feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices;

- C. Sidewalk vending is only permitted between the hours of 8:00 a.m. and 10:00 p.m., daily, except as follows:
1. In residential areas, sidewalk vending shall only be permitted between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 6:00 p.m. on weekends and holidays.
  2. In nonresidential areas, the limit on hours of operation shall not be more restrictive than the hours of operation of other businesses or uses on the same street.
  3. In park areas, sidewalk vending shall be permitted only during hours when the park is open to the public.
- D. Stationary sidewalk vendors shall not sell in areas that are zoned exclusively residential.
- E. Stationary sidewalk vendors shall not sell at any park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
- F. Sidewalk vendors shall provide a trash receptacle for customers and ensure proper disposal of customer trash. Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the vendor's customers within a fifteen (15) foot radius of the vending location.
- G. Vendors of food or food products shall possess and display in plain view on the vending cart a valid Public Health Permit from the Fresno County Department of Public Health.
- H. Sidewalk vendors shall possess at all times while selling a valid sidewalk vendor permit issued pursuant to this chapter, as well as any other permit or license required by the City and any other appropriate governmental agency.
- I. Sidewalk vendors shall possess at all times while selling proof of current liability insurance.
- J. Sidewalk vendors shall comply with all applicable state and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and regulations; noise standards; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).
- K. Vending carts shall not be chained, fastened, or affixed at any time to any building or structure, including, but not limited to lampposts, parking meters, traffic signals, fire hydrants, benches, bus shelters, trash cans, street signs, trees, or other objects within the public right-of-way. No vending cart shall

become a permanent fixture on any site or be considered an improvement to real property.

### **5.28.100 – Administrative Citations**

- A. A violation of this chapter by a sidewalk vendor who has a valid sidewalk vending permit from the City is punishable only by an administrative citation in amounts not to exceed the following:
  - 1. One hundred dollars (\$100) for a first violation.
  - 2. Two hundred dollars (\$200) for a second violation within one year of the first violation.
  - 3. Five hundred dollars (\$500) for each additional violation within one year of the first violation.
  
- B. A person engaged in sidewalk vending without a valid City sidewalk vending permit is punishable by an administrative citation in amounts not to exceed the following, in lieu of the amounts set forth in paragraph A:
  - 1. Two hundred fifty dollars (\$250) for a first violation.
  - 2. Five hundred dollars (\$500) for a second violation within one year of the first violation.
  - 3. One thousand dollars (\$1,000) for each additional violation within one year of the first violation.
  - 4. Upon proof of a valid sidewalk vending permit issued by the City, the administrative citations set forth in this paragraph shall be reduced to amounts set forth in paragraph A.
  
- C. A violation of this chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.
  
- D. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
  
- E. When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment



remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

- F. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the City shall accept, in full satisfaction, twenty (20) percent of an administrative citation imposed pursuant to this chapter.
- G. The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.

**SECTION 4.** Title 5, Chapter 5.32 of the Mendota Municipal Code is hereby amended as follows:

### **Chapter 5.32 – MOTORIZED ITINERANT VENDORS**

#### **5.32.010 – Definitions**

For the purposes of this chapter, the following words have the meanings set out in this section:

“Motorized itinerant vendor” means a person, other than a sidewalk vendor, engaged in the business of selling food, goods, wares, merchandise or any other thing of value from a motorized vehicle or mobile unit.

“Merchandise” means any item of personal property whether tangible or intangible, or any service capable of sale.

“Nonprofit organization” means an organization which is capable of being so designated under the rules and regulations of the Internal Revenue Service.

(Ord. 91-04 § 8, 1991: prior code § 6.09.001)

#### **~~5.32.020 – Prohibition.~~**

~~It is unlawful for any itinerant vendor to sell merchandise at any time within the city limits on~~

- ~~A. Any street, sidewalk or other public way;~~
- ~~B. Any publicly owned property;~~
- ~~C. Any open lot or field whether publicly or privately owned; and~~
- ~~D. Privately owned property where such sales take place out of doors.~~

~~It is unlawful to sell any agricultural products, specifically including fruit, nuts, flowers or live plants within the city limits of the City of Mendota under this chapter.~~

~~(Prior code § 6.09.002)~~

~~(Ord. No. 09-09, § 1, 7-28-2009)~~

### **~~5.32.030 – Exceptions.~~**

~~The following activities or entities shall not be subject to the provisions of Section 5.32.020:~~

- ~~A. Nonprofit organizations provided they sell only during civic-sponsored or authorized festivals, events or holiday periods and they do the following:
  1. Obtain a permit from the City Hall specifying the items to be sold, the dates of sale and the location where the sale is to be held, and
  2. Sell only in areas designated by the city for such sales;~~
- ~~B. Garage or yard sales which a person conducts on or at his residence provided such person complies with all other regulations of the city;~~
- ~~C. Sidewalk type sales of local business conducted on their own property adjacent to the structure in which their regular business is conducted;~~
- ~~D. Any activity covered under Chapter 5.28.~~

~~(Prior code § 6.09.003)~~

### **~~5.32.040 – Violation – Penalty.~~**

~~Any person or entity violating the provisions of this chapter shall have committed an infraction and will be subject to the general penalty provisions of Chapter 1.20 of this code.~~

~~(Prior code § 6.09.004)~~

### **5.32.020 – Permits**

All motorized itinerate vendor equipment and vehicles must be inspected and approved by the local health officer prior to the issuance or renewal of a motorized itinerate vendor permit and such permit shall be displayed in plain sight on the vehicle. The permit fee for an annual permit shall be set by resolution of the City Council. Permits shall be issued for a period of one year. The application fee for an annual permit shall be set by resolution of the City Council.

### **5.32.030 – Number of permits issued**

One motorized itinerant vendor permit shall be issued for each one thousand five hundred (1,500) residents or a portion thereof, in the City, as established by an official census.

### **5.32.040 – Issuance of new permits**

New motorized itinerant vendor permits shall be issued to the person who applied for a motorized itinerant vendor's license for the longest period of time. If there is no such person or it is impossible to determine the identity of that person, the new permittee shall be chosen by lot. Permit renewals shall be issued consistent with the provisions of Section 5.28.060.

### **5.32.050 – Notices when less than all permits are issued**

Whenever there are less than the maximum number of motorized itinerant vendor permits issued in the City, the City Clerk shall post notice in City Hall, mail notice to any person who held a permit during the prior year who failed to renew that permit, and mail notice to persons who made written request for such notice and paid a fee of five dollars (\$5.00) to cover processing costs. Written requests for notice more than twelve (12) months old will not be honored.

### **5.32.060 – Priority to existing permits**

Persons holding a motorized itinerant vendor permit shall have priority on the reissuance and renewal of their permits subject to the following conditions:

- A. The permittee shall have complied with all provisions of this code with respect to the operation of the motorized unit;
- B. The motorized unit shall have been approved by the local health officer; and
- C. The permittee shall have actively exercised the permit during the prior permit period by operating in the city during substantially all of the permit period.

### **5.32.070 – Sitting and outdoor seating**

- A. The motorized unit shall not be located closer than fifty (50) feet from a permitted restaurant. Disposal of grease shall conform to all applicable health and safety requirements.
- B. The permittee may, by application for an encroachment permit and payment of required fees, request the city's approval for a temporary street-side location for its motorized unit. In addition, the permittee may, by application for an encroachment permit, and payment of required fees, request the City's approval for the temporary placement of tables and/or chairs on the City sidewalk, within the City's street right-of-way, adjacent to the motorized unit. In considering the permittee's encroachment permit application, the City shall make the following findings.
  - 1. That adequate parking exists for customers of the temporary facility.

2. That placement of tables and chairs shall provide adequate setback for pedestrian traffic on the sidewalk, as demonstrated by a written site plan, and as demonstrated by placement on the sidewalk.
3. That tables and chairs shall only be allowed during the period of June 1st to September 30th of the each year.

#### **5.32.080 – Revocation of permit**

- A. Whenever a motorized itinerant vendor operating under a permit issued pursuant to this chapter is violating any provision of this chapter, the City shall deliver a written citation enumerating the violations to the owner or any employee of the owner. The permittee shall immediately cease all business operations conducted under the permit until the enumerated violations have been corrected. If the permittee does not correct the violations within the time specified in the citation, and there is no appeal pending, then the permit shall be automatically revoked and the permittee must cease conducting any further business. Once a permit has been revoked, the owner must apply for a new permit and pay a new fee.
- B. The permittee may appeal the issuance of the citation to the City Manager by submitting a request in writing to the City Manager within fourteen (14) days from the date the citation is issued.

#### **5.32.090 – Request for notice**

The request for notice shall contain the following:

- A. The name of the owner of the motorized unit;
- B. The address of the owner;
- C. The telephone number of the owner;
- D. The license number of the motorized unit;
- E. It shall be accompanied by the five-dollar (\$5.00) fee and shall be dated and signed by the owner of the motorized unit.

#### **5.32.100 – Violation—Penalty**

Any motorized itinerant vendor who operates within the City limits without a permit or after his permit has been revoked is guilty of a misdemeanor. The owner, manager and/or operator shall be responsible for any violation of this chapter.

**SECTION 5.** Title 5, Chapter 5.04, Section 5.04.010 of the Mendota Municipal Code is hereby amended as follows:

For purposes of this title, the following terms shall have the following meanings:

“Business” means trades, callings, professions and occupations of every kind whether or not carried on for profit.

~~“Itinerant food vendor” means a person engaged in the business of selling food items, including prepared food, ice cream, bakery products, fruits and vegetables, from a motor vehicle or mobile unit.~~

“Motorized itinerant vendor” means a person, other than a sidewalk vendor, engaged in the business of selling food, goods, wares, merchandise or any other thing of value from a motorized vehicle or mobile unit.

~~“Peddler” means a person not having a fixed place of business who travels from place to place for the purpose of selling or offering for sale any goods, wares or merchandise.~~

“Person” or “Party” means a firm, corporation, partnership, club, association or other entity conducting or carrying on a business in the city.

“Sale” means the transfer, in any manner or by any means, of title to real or personal property for consideration, including a transaction whereby the possession of property is transferred and the seller retains legal title as security for payment of the purchase price.

“Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

**SECTION 6.** Title 5, Chapter 5.04, Section 5.04.060, Subdivision C of the Mendota Municipal Code is hereby amended as follows:

- C. A licensee with no permanent business address, such as a ~~peddler~~sidewalk vendor, shall be issued a license showing the expiration date.

**SECTION 7.** Title 5, Chapter 5.08, Section 5.04.340 of the Mendota Municipal Code is hereby deleted in its entirety.

**SECTION 8.** Title 5, Chapter 5.08, Section 5.08.230 of the Mendota Municipal Code is hereby amended as follows:

**5.08.230 –Motorized itinerant vendor.**

Persons engaged in the business of motorized itinerant vendor, including lunch trucks, shall pay a license fee of one hundred fifty dollars (\$150.00) per year for each place of business ~~or lunch truck~~.

**SECTION 9.**Title 10, Chapter 10.20, Section 10.20.020 of the Mendota Municipal Code is hereby deleted in its entirety.

**SECTION 10.**Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

**SECTION 11.**This ordinance shall take effect thirty (30) days after its passage.

**SECTION 12.**The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

\* \* \* \* \*

The foregoing ordinance was introduced on the 14<sup>th</sup> day of May, 2019 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 28<sup>th</sup> day of May, 2019 by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
Robert Silva, Mayor

ATTEST:

\_\_\_\_\_  
Celeste Cabrera-Garcia, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kinsey, City Attorney

---

---

## **ADMINISTRATIVE SERVICES DEPARTMENT REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** JENNIFER LEKUMBERRY, DIRECTOR OF ADMINISTRATIVE SERVICES  
**VIA:** CRISTIAN GONZALEZ, CITY MANAGER  
**SUBJECT:** MONTHLY REPORT (APRIL 2019)  
**DATE:** MAY 28, 2019

---

### **HUMAN RESOURCES**

- Processed new hire paperwork for two employees.
- Processed paperwork for an exiting employee.
- Fort Washington held 401k Due Diligence Meeting and Education Meeting.

### **RISK MANAGEMENT**

- **Claims**
  - There were no new claims against the city in the month April.
- **Worker's Compensation Claims**
  - There were no new worker's compensation claim in the month of April.

### **SENIOR CENTER**

- For the month of April, there was an average of 10 attendees daily at the senior center.

### **SPECIAL PROJECTS**

- Completed and submitted the 2018 Government Compensation Report
- Participated in the Mendota Community Advisory Group Meeting
- Participated in the Caltrans Annual Airport Inspection